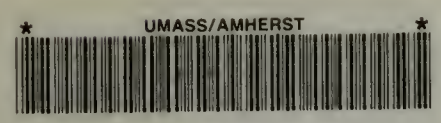

"IN TROUBLE"

CHILDREN AND FAMILIES IN NEED OF SERVICES

The Final Report
of

THE COMMONWEALTH OF MASSACHUSETTS

SPECIAL LEGISLATIVE COMMISSION ON CHILDREN IN NEED OF SERVICES

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SPECIAL LEGISLATIVE COMMISSION ON CHILDREN IN NEED OF SERVICES

Chaired By
Representative Barbara A. Hildt and Senator Salvatore R. Albano

Kathleen Atkinson, Executive Director

OCTOBER 1989

EXECUTIVE SUMMARY

Each year approximately six thousand children in the Commonwealth of Massachusetts under the age of seventeen are brought before juvenile courts and juvenile sessions of district courts and, under the provisions of Massachusetts General Law Chapter 119, Sections 39 E-J, are found to be "Children in Need of Services". Usually between the ages of eleven and sixteen, these children have been turned in by their parents or guardians, by a supervisor of attendance, or by a police officer; and, although not charged with a crime, they are minors "in trouble"--they have run away from home, failed to attend school regularly, or have persistently disobeyed either parental or school authority.

They are commonly labeled "status offenders"-- "runaways", "truants", or "stubborn children"-- and there are an additional fifteen to twenty thousand adolescents with similar problems who don't wind up in court but are seen each year by the Massachusetts Department of Social Services, the schools, police, hospitals, or social service agencies. Commonly they are embroiled in on-going conflict within the family or at school. A substantial number have had a longstanding history of a variety of problems at home and at school--drug and alcohol addiction, family violence, learning disabilities, abuse or neglect, and physical, psychological, or emotional problems--which finally

escalate to the point where the child acts out and a serious rift develops between the child and the adults responsible for his or her rearing or education. For the most part, the significant adults in the child's life have given up and have turned to the court for help in controlling, managing or "teaching the kid a lesson".

While this report does make a point of noting some of the key dilemmas and deficiencies which exist in the systems which currently handle CHINS youth, it seeks more importantly to set standards by which state and local government, the courts, local communities, schools, and the private sector can measure success in meeting the needs of troubled children and their families. In an effort to understand the problems experienced by the courts, social services, and the schools in dealing with these children and their families, the Special Legislative Commission on Children in Need of Services (CHINS) has studied a myriad of issues associated with serving the CHINS population and reports at length on findings and recommendations in four major areas:

1. Profiles of Children and Families in Need of Services (Chapter I)
A review of the conduct, behavioral characteristics and conditions of life for CHINS youth and their families;

2. The Roles and Responsibilities of Schools (Chapter II)
A look at the conditions surrounding and leading to CHINS petitions for truancy and problem behavior in school;

3. The Law and the Courts (Chapter III)
An examination of the role of the judicial system and options for reform of the CHINS statute; and

4. Services for Adolescents and Families in Need (Chapter IV)
An overview of policy and program strategies for serving children and families in need.

SUMMARY of FINDINGS and RECOMMENDATIONS

FOUR PRIORITIES FOR ACTION

1. PREVENTION AND EARLY INTERVENTION

The Commonwealth should invest in programs and services which meet the basic needs of families with children, especially those with teenagers. Delay in addressing the home and school problems of children often leads to school failure and dropping out as well as to other problems such as substance abuse. Every dollar spent now on preventing ill health, family violence, teen pregnancy, child abuse and neglect, school failure, illiteracy, substance abuse, and homelessness saves five dollars in costs later for hospitalization,

incarceration, welfare, job training, and other expensive remedial efforts.

2. COURT DIVERSION

Non-litigious solutions to family and school problems are the most successful. As research nationwide indicates, children experiencing conflict at home and in school tend to resist punitive solutions and respond most favorably to mediation and programs of concentrated attention to their real needs in the home, community, and school.

3. PUBLIC SCHOOL REFORM

The school is the principal institution outside of the family whose primary concern is the well being and development of children, and, in order for schooling to succeed, it must find new and better ways of reaching out to parents and responding to the contemporary needs of children and adolescents.

4. ACCESS TO AFFORDABLE SERVICES

The state and local communities should work together to identify and help children in conflict with their parents or with the school and to coordinate community-based or regional response networks which utilize existing services to the maximum benefit of troubled teenagers and their parents.

Chapter I--Profiles of Children and Families in Need of Services

A. Children Who Run Away From Home--It is estimated that upward of two thousand children in the Commonwealth run away from home or from a guardian each year. Numerous studies indicate that runaway youth are generally younger, more abused and neglected, and more emotionally disturbed than ever before noted, and social service professionals report an increase in the number of adolescents described as "chronic runners"--youth who experience a wide range of complex problems and repeated failure to find support or solutions to their problems.

B. Children Who Don't Go To School--In many school districts across the Commonwealth one in four students drops out of school, and most national studies point to frequent and prolonged unexplained absence from school as a fairly reliable indicator that a student is likely to be expelled, be dropped from the rolls, or leave school voluntarily prior to completion. Court records in Massachusetts indicate that over half of all CHINS petitions are related to truancy, and the highest percentage of students adjudicated as truants are between the ages of thirteen and fifteen. Educators, researchers, court officials, and social service professionals generally agree

that children experiencing school attendance problems present profiles which are complex and disturbing in light of rising rates of students leaving school before graduation.

C. The Most Difficult and Troubled Children--These children constitute a small but growing significantly troubled and problematic portion of the entire CHINS population. Only a very small number (two to four hundred) of CHINS adjudicated youth seen each year by the Department of Social Services ultimately become involved with crime and end up in Department of Youth Services programs. However, if current trends continue, in the coming year alone the Department of Social Services will handle approximately 2000 court referred CHINS youth. These are the children who are most likely to have suffered persistent health problems, violence, abuse, neglect, drug and alcohol dependency, and educational deficiencies. They are less likely to seek help from traditional sources of social and educational services, and, for the most part, their parents and numerous human service professionals, educators, and law enforcement professionals have become totally frustrated in their attempts to intervene.

D. Families in Need of Services--Irrespective of family income or marital status, unrelenting marital discord, domestic violence, and untreated substance abuse impair parents' capacity to pay attention to the needs of their children which may result in physical and mental abuse or neglect of children and long term physical, emotional, and psychological harm to the family unit. In some families, rules and behavioral limits are unclear, erratically enforced, unenforced, or too strenuously enforced resulting in children gaining power over the family by acting out in anger and frustration. Many families, especially those headed by single parents, are forced by economic necessity and lack of affordable child care to choose between working and supervising their children; and families which have problems obtaining basic needs--affordable housing, food, health care, and clothing--frequently experience stress which affects their ability to nurture and rear children.

Goals and Recommendations

1. Steps should be taken to ensure access to affordable child care, health care, and housing with priority given to assistance to families with children.

2. School and community-based programs should be developed to provide affordable assessment, diagnostic, and referral services especially for adolescents and their families.

3. Confidential and affordable community-based family mediation services should be made available across the Commonwealth.

4. Parent education programs should be made available statewide to provide information and support for parents encountering problems dealing with their children.

5. Community-based shelters, specialized foster care programs, and transitional living programs for adolescents should be made available statewide in conjunction with schools, medical facilities, and human service providers.

6. Statistical information should be collected annually and formal research conducted on the needs and problems of families and children at risk.

Chapter II--The Roles and Responsibilities of Public Schools

A. Prevention and Early Intervention--A recent public health study found that there is an increase in the variety and number of incidents of adult diseases among children due to poor physical conditioning, diet, and health habits; depression, substance abuse, suicide, and teen pregnancy are being documented at higher rates than ever before. Counseling and psychological services (other than those related to special education) are not mandated in schools statewide, and, where they do exist, they have been curtailed, cutback, and, in some cases, virtually eliminated due to competing educational priorities such as basic skills improvement. Health education, while required in the curriculum, is largely taught in a piecemeal, crisis oriented fashion with little documented lasting effect on student behavior. Competing mandates, as well as a lack of adequate resources and cooperation between and among parents, schools, and health and human services, leads to interagency haggling over funding, and children, especially those in elementary and middle schools, go unserved.

Summary Recommendation

Schools should provide well-coordinated, sequential, and age appropriate comprehensive health education and human service programs for all students, PK-12. The Legislature should pass and enact H. 3163 "An Act to Prevent Abuse and Strengthen the Family Through Comprehensive Health Education and Human Services in the Public Schools" in order to help fund these services in school districts statewide.

B. Programs to Encourage Attendance and School Completion--Significant numbers of children are absent or leave school for "reasons unknown"--neither the state nor school districts have adequate data on non-attendance. In schools where disciplinary "due process" is short-circuited or persistent symptoms of school problems are ignored, some students give up easily in

the face of repeated punishment and end up dropping out. With the increase in teen parenting rates and the number of adolescents who must work to support themselves, increasing numbers of students have parenting and employment responsibilities which necessitate taking "time out" from attendance in a standard school program, and many students who don't attend school report that they have numerous school-related problems such as repeated academic failure leading to retention at grade level, inappropriate placement, lack of adult contact or supervision, and repeated disciplinary infractions. Once a student drops out or is encouraged to leave school, rarely does he or she return to any educational program at all.

Summary Recommendation

School Committees and communities should identify the changing needs, cultural norms, and differing experience of children and youth, and develop policies and programs which promote school completion, acknowledge the realities of contemporary student and family life, and accommodate their needs through the collection and analysis of attendance data and school improvement planning. The Legislature should fully fund public education reform in order to support these important local efforts.

C. School Attendance Policies and Practices--Some schools in the Commonwealth have policies which require that students be suspended from school for excessive absence and forbid students to make up work missed during the suspension, thus causing students to fall even farther behind academically; in some cases, this policy helps students who are experiencing difficulty attending school to avoid school responsibilities altogether. Other schools permit teachers to fail students or lower their grades automatically after a specified number of unexcused or even excused absences from class, whether or not all class and homework is completed satisfactorily, thus encouraging students to give up, flunk out, or lose confidence in their ability to learn. And still others have no procedures in place specifying actions to be taken when students are tardy, absent, or missing, especially when parents are unavailable or unable to assist thus increasing the chances that non-attendance will continue and escalate through neglect by both family and the school.

Summary Recommendation

By providing state monitoring of school attendance policies and standards for Supervisors of Attendance the Commonwealth should ensure that new or existing school policies and practices do not inadvertently discourage or virtually exclude students so that they become non-attendees or court adjudicated truants.

D. Individual Student Service Plans--Research and experience indicates that many students who leave school prior to completion have had long-standing histories of unnoticed or unchallenged school absenteeism or anti-social behavior in school. Early intervention is likely to reduce the risk of school problems escalating for students and their families--many former CHINS youth report that the timely intervention of a single trusted adult has made the difference in their lives. But coordinated, consistent efforts to encourage a positive school experience for high risk students is likely to require involvement of parents who may need help themselves, and schools must enlist the commitment, leadership, and cooperation of numerous professionals and their agencies as well.

Summary Recommendation

Schools should routinely investigate and follow up on children who are excessively tardy, absent, withdrawn, aggressive or frequently accused of breaking the rules, and, after assessment, an appropriate supportive service plan should be developed for each student in need. State programs should encourage more social service agency involvement with schools and the development of support systems for students and their parents.

E. Increased and Improved Cooperation Among Schools, Families, and Social Service Agencies--It is frequently difficult for professionals from the schools and different agencies to communicate effectively with each other, even about mutual clients--conflicting schedules, priorities, confidentiality requirements, and perspectives on causality and solutions to problems get in the way of communication, joint planning, and coordination. Even within the same school district, services to high risk students may be fragmented among special education, guidance, and regular education programs. The confusion is mirrored at the state level--human services, education, the juvenile courts, the district courts, and the over three hundred and fifty school districts have bureaucracies and different policies and standards which complicate communication and frequently thwart cooperation.

Summary Recommendation

Children who are unwilling or unable to attend school or conform to reasonable school conduct policies should be assessed and they, their parents, and their teachers should have access to a network of professionals and agencies working in "sync" with each other to assist the child, his or her parents, and the school in resolving problems and eliminating barriers to successfully attending and completing school assisted by state level planning and coordination of social services to schools and local planning councils for youth services.

F. Courts and The Schools--When a child is referred to a court on any charge, schooling is likely to be interrupted. Courts generally are not equipped to assess the educational needs of children, and probation officials in some jurisdictions are reporting difficulty in obtaining the cooperation of schools in the provision of educational services for CHINS youth.

Summary Recommendation

Where and when necessary, courts and schools should cooperate in developing programs which divert CHINS youth away from involvement with the court system and guarantee that schooling continues by increasing the availability of alternative education programs and the development of cooperative arrangements between the courts and the schools.

G. Inservice Education and School Improvement Efforts--Teachers, especially those in secondary schools for whom the primary focus is subject matter mastery, frequently lack preservice training in child development and lack access to inservice education necessary to update themselves on such matters as changing cultural norms, effects of racial, ethnic, or gender stereotyping on teaching and learning, and methods of recognizing problems and locating appropriate services for students who are having problems which interfere with learning. Where class sizes and case loads are large and faculty and staff cuts have reduced pupil access to alternative education and special programs, the prospect that high risk students will not get the attention that they need is greatly increased. Teachers, also, are more apt to experience morale problems and increased frustration with working conditions which interfere with their ability to teach.

Summary Recommendation

Steps should be taken to upgrade the capacity of school personnel to find ways to help all students succeed in school including increasing inservice education and providing more access to community-based services, more release time for planning, and more opportunities for interaction with parents.

Chapter III--The Law and the Courts

A. **Issues and Options**--During the course of its discussion of the CHINS law and the role of the courts, the Commission has identified two overriding concerns:

1. The law does not recognize sufficiently the dynamics of children in conflict with their families or schools, and fails to encourage the full participation and cooperation of children, parents or guardians, social services, and schools in resolving these conflicts--at present, the law lends credence to the misperception that children who run away from home, do not attend school, or who persistently misbehave in school or at home are acting alone and without reason and require state intervention; and

2. The existence of the law does not ensure that children or families will seek or accept help or, if they do, that they will have full and timely access to affordable and appropriate services and assistance in resolving any problems which may be contributing to family or school-based conflict.

Therefore, in an attempt to look at the Massachusetts CHINS law as a vehicle intended to promote early identification and intervention in cases where children and their parents or guardians clearly need supportive services in order to resolve conflicts within the family or at school, the Commission has focused on two compelling issues:

1. The feasibility of expanding the focus of problem prevention and remedial services beyond children in need to include whole families--their parents and siblings, if necessary; and

2. The type and degree of judicial involvement necessary in cases which involve children and families in conflict with family or school.

B. **Access to Services**--While the involvement of family members in the resolution of CHINS cases is considered paramount, the prospect of inducing troubled children and their families to seek services is difficult to expect unless four important conditions are met:

1. The availability of convenient, affordable, and non-litigious conflict resolution services for children and families;

2. The availability of coordinated human and fiscal resources targeted specifically for services to children in conflict with their parents or the school;

3. A fair and acceptable definition of what conditions constitute eligibility for services; and

4. Incentives for children and families to seek and accept help on their own.

C. **Judicial Involvement**--Ideally families voluntarily seek and receive assistance from trusted friends or qualified professionals when experiencing unresolved conflict, especially when the conflict involves a child persistently running away from home or not attending school. When all is considered, the Commission has concluded that the most promising direction for reform is toward promoting prevention and early intervention efforts--convenient, affordable access to services for families as well as for children--and to require that state agencies, schools, and parents take certain steps to help resolve their conflicts with children prior to turning to the court. It has held fast, however, on the necessity for judicial involvement in cases of children at risk of serious endangerment and in adjudicating disputes between service providers.

D. **The Role of Probation Officials**--In civil cases such as CHINS, probation is noncriminal in nature and provides services to families in a variety of often traumatic domestic relations matters. The CHINS statute currently specifies that applications for services be assessed by the probation department attached to the juvenile court or district court assigned to hear a case. In examining the important role of the probation department, the Commission has identified a couple of issues which have a negative impact on that role:

1. Where they exist, standards and procedures for handling CHINS cases may vary from court to court and from judge to judge, leaving much room for confusion on the part of probation officers as well as for families, service providers, and the children themselves; and

2. Even in courts which have probation officers specifically designated to work with juveniles, the capacity of probation departments to meet the complex needs of CHINS youth and their families is likely to be limited by a lack of cooperation from area social services and the schools, a lack of resources, and competing demands to handle cases of delinquency, abuse, and neglect.

However, while the Commission sees much virtue in decriminalizing CHINS proceedings and diverting the bulk of these cases away from court involvement and toward voluntary resolution of family and school-based problems, it feels that qualified juvenile probation officials can play a

significant role in the process--especially in facilitating the resolution of the most difficult cases where a service plan has been developed, services have been offered or provided, and the situation remains unresolved.

E. The Role of Attorneys, Guardians Ad Litem, and Advocates--According to the law, a child is guaranteed legal representation at all hearings on the subject of his or her need for services. While appearing straightforward, over the past fifteen years this requirement has raised some unresolved controversy between those who see the role of a child's attorney as that of representing "the best interests" of the child and those who view the proper role as legal advocate for the wishes of the child. Other questions have been raised about appropriate roles for court-appointed guardians ad litem and advocates such as the Massachusetts Office for Children's Councils for Children, and, in its report, the Commission agrees with several of the recommendations put forth by the Massachusetts Commission on the Unmet Legal Needs of Children which would lead to clarification of roles and standardization of court procedures in CHINS cases across the Commonwealth.

F. The Role of Local Law Enforcement Officials--The local police department is frequently the first agency to be notified when a child is missing. Sometimes parents or guardians are unaware of the child's whereabouts; but, increasingly, police report that parents are likely to know where the child is and want police assistance in returning him or her to the home. And yet, when an officer picks up a child who has allegedly run away from home, he or she is faced both with an upset child and a number of distressing procedural dilemmas to resolve, not the least of which is what to do with the child if the parents are unavailable or unwilling to come to the station--federal law and sound law enforcement policy prohibits detaining CHINS youth in a police lockup even temporarily. In the absence of shelters and other community-based alternatives, police are letting runaways go or they are detaining them in lockups and jails until parents take custody or a court date is available--last year alone approximately 2000 such youth were held in police lockups across the Commonwealth in violation of federal law.

Summary Recommendations

1. The Commonwealth should discontinue the practice of labeling children in need of services as "status offenders". Rather than identifying them as "pre-delinquent", "truant", "runaway", or"stubborn", terms which unfairly evoke a subtle implication of guilt, criminality, and punishment and tend to exacerbate the conflict, the courts, schools, and associated service providers should

focus attention on resolving the conflict, meeting the needs of the child and his or her family constellation, and on improving services.

2. The Commonwealth should make efforts to expand access to affordable non-litigious conflict resolution services such as family mediation, and, whenever possible, require the use of these services prior to the filing of an application for court intervention.

3. The courts should continue to closely monitor cases when children are arrested for running away or when disputes arise between schools or agencies providing services to children and their families.

4. The Commonwealth should develop and implement a statewide social service needs assessment and guidelines governing procedures for the collection of reasonable fees for services to children and families.

5. The Juvenile Court Department and the District Court Department should develop and implement standard judicial guidelines to govern procedures and standards employed in court supervised interventions.

6. The Commonwealth should encourage and support the development and replication of court diversion programs for CHINS youth.

7. The Executive Office of Human Services, in cooperation with the Department of Education, the courts, school committees, and human service advocates should develop and implement a comprehensive state and local plan for promoting the provision of affordable, specialized, community-based services for troubled youth and their families including parent education programs, family mediation services, and family advocacy services.

8. The Legislature should consider the reform of existing CHINS law proposed in the legislative petition filed by the Chairmen of the CHINS Commission entitled "An Act Relative to Children and Families in Need of Services" (See Appendix A).

Chapter IV--Services for Adolescents and Families in Need

A. Case Management Services--Effective case management is essential in achieving the goal of easy access to a balanced and comprehensive, community-based system of service to children and families in need. The key ingredients in state-of-the-art case management are a face-to-face evaluation of the child and his or her family and school life, the development of a service plan in collaboration with appropriate agencies and individuals, the connection of the client to appropriate services, regular contact with the client to make sure that services are being delivered and continue

to be appropriate, and advocacy for the client on all levels. CHINS cases are notoriously complex-case management brings the child, parents, school officials, and social services together.

B. Coordinated Service Planning--A basic service plan ideally should identify specific measurable outcomes and steps to be taken to reconcile any problems which exist between the child and his or her parents or the school. In formulating such plans for CHINS youth, the Commission suggests that:

- The involvement and participation of parents or guardians is essential;
- Difficult youth and families in trouble are best reached by trusted professionals and well trained peers who are "street workers" in the community;
- Every child in every community needs to know that there is at least one adult or place nearby that is not a state office, court house, or police station where he or she can go for help with school or family problems;
- Those who come in contact with teenagers on a regular basis should have access to information and professional assistance in helping children deal with substance abuse, family violence, etc.; and
- There should be a community-based or regional emergency response plan for non-delinquent children "in trouble".

D. A Continuum of Services--Four basic types of service--prevention, early intervention, emergency, and residential--should be available at a reasonable cost statewide so that troubled children and families will be assured of timely access to information and confidential assistance in handling family or school related problems.

E. Service Delivery--The Commission has identified a number of areas where state and local officials, schools, and social service providers can improve the delivery of services to CHINS youth and their families:

1. **Access to Services**--Where services may be available to adults or infants, they may closed to teenagers or inappropriate for them; there may be no community-based services available in an area thus necessitating a residential placement; and crises don't always happen during regular business hours...

2. **Community-based Planning**--Local officials and professionals who work with families and children should be the primary participants in assessing and determining the need for services and formulating the structure of programs;

3. **Professional Development**--Professionals working with CHINS youth and their families should have special expertise in understanding and resolving

family conflict and should be trained to provide services with a family orientation stressing prevention, early intervention, crisis management, and follow-up;

4. **Family Reunification**--Every effort must be made to assist family members in maintaining family ties and to make sure that children continue to receive educational services;

5. **Family Violence Prevention**--Professionals working with CHINS youth and their families should have training to increase their awareness of the dynamics of domestic trauma and their capacity to manage family crises;

6. **State and Local Policies and Procedures**--All should specifically address adolescent and family issues and, whenever possible, should promote diversion to voluntary solutions to family or school-based conflict. State contracted service providers should be held to uniform standards of performance relating to families and adolescents; and

7. **Advocacy for Teenagers and Their Families**--The Commonwealth should develop and support constituencies for teenagers and their parents through a statewide public service campaign, and should make peer support, instruction, and advocacy available when needed.

In addition, the Commission has determined that the following types of service should be components of a community-based service network for CHINS youth and their families:

- Family Mediation Services
- Tracking and Aftercare Services
- An Emergency Response System
- Drug and Alcohol Detoxification Services for Adolescents
- Medical and Dental Health Services for Adolescents
- Primary Prevention and Early Intervention Programs
- Shelter Care
- Local or Regional Residential Services
- Transportation Services
- Language Translation Services

F. Policy and Resource Priorities--The Commission strongly recommends that state and local officials, schools, and service providers should:

1. Plan for efficiency in service delivery;
2. Maximize the benefits of cost sharing;

3. Make services to adolescents a priority;

4. Support existing programs and services for children and adolescents; and

5. Target state and federal dollars for adolescent services.

IN SUMMARY...

The Commission observes that services to adolescents and families will be greatly improved when:

- All state and local social services, law enforcement, and schools are trained to provide services with an orientation primarily to prevention, early intervention, crisis management, and follow-up;

- The Commonwealth makes sure that there is equal, affordable, and convenient access to services for adolescents and their families statewide;

- Programs and services are community-based and locally developed and controlled;

- The Commonwealth supports local programs and services for teenagers and families;

- State and local services are organized on a continuum;

- Professionals working with adolescents and families the expertise to handle family and school-based conflict;

- Diversion to voluntary solutions is attempted and may eliminate the need for CHINS proceedings, litigation, and court involvement; and

- The Commonwealth takes steps to assure that contracted service providers are held to uniform standards of performance specifically pertaining to families and adolescents.

CHAPTER I

PROFILES OF CHILDREN AND FAMILIES IN NEED OF SERVICES

There has been a notable rise in the number of children and youth referred to CHINS as a result of suicide attempts, drug and alcohol addiction, and emotional disorders. Most, if not all CHINS youth appear to be acting out as a result of significant depression, isolation, and confusion. Some have been rejected outright by their parents or by the school. In study after study they are described as largely unhappy and desperate, confused about their roles and identity, lonely, and alienated from their families and the institutions historically charged with guiding and nuturing them.

A significant portion of the effort of the Commission has focused on studying the conduct, behavioral characteristics, and conditions of life for CHINS youth and their families. Although there is a notable scarcity of demographic data available on Massachusetts CHINS youth, the Commission has managed to glean a substantial amount of descriptive information from various books and reports published over the past ten years as well as from testimony provided to the Commission by experts in the field, service providers, parents and youth, and Commission members themselves, most of whom have had firsthand experience working with children in need of services, their families, and the institutions which serve them.

WORKING PREMISES

• Parents in the 1980's are significantly challenged by the financial necessity to work full-time, by the lack of adequate and affordable child-care, and by a reduction in the availability of school and community-based support services and supervised recreational opportunities for children and youth. In general, domestic policy has failed to keep pace with changes in American society--whereas twenty-five years ago there were major federal programs which promoted education, housing, and family services, nowadays federal interest in these areas has been drastically curtailed. Almost half of all children live in a single parent or reconstituted family which has been significantly disrupted by divorce and financial hardship, and single parent families, the poor, homeless, unemployed, and recent immigrants are particularly vulnerable as a result of inadequate

AFDC benefits, racial, ethnic, and linguistic discrimination, lack of education, the high cost of medical care and the failure of the minimum wage to keep pace with the cost of living.

• Standards of behavior for children are most appropriately set by family, school, church, and community, and children's behavior is commonly a reflection of their reactions to conditions in the home, at school, in the community, and the society at large. A child who is frequently in trouble with family or school authority may be transmitting a signal that there has been a significant breakdown in one or more of these systems of support, guidance, and supervision.

• Rather than stigmatizing children by arbitrarily labeling them "runaways", "truants", "stubborn children", or "pre-delinquent", the interests of such youth, their families, and society are best served by ongoing efforts to eliminate the causes of persistent unresolved conflict between children and their families or schools and by prompt attention to personal,social, political, and economic conditions which may lead children and families to experience such trouble.

CHILDREN WHO RUN AWAY FROM HOME

PATTI

Patti (not her real name) started drinking at age twelve and ran away from home for the first time when she was thirteen. She was tired of the beatings her parents were giving her, and of the noise and chaos in a household with eight children in it. Her father was a drunk and her mother was bitter--she didn't think they'd miss her.

For the next three months she drifted between friends' houses and began to drink and use drugs regularly. Gradually she forgot why she had left home in the first place, and she let herself imagine that if she tried harder, she might make things work out at home. She envied her girlfriends who had warm and supportive relationships with their parents. But her reunion with her family lasted only six months. Nothing had changed. The beatings, the arguments, her father's drinking--it was the same bad scene, so she ran away again, this time for two years.

During all this time, Patti had no stable place to live, no place of her own where she truly felt safe. She no longer bothered with school; she just "hung out" during the day and partied at night. She stayed with numerous friends, with boyfriends, or drifted back and forth between several crash pads in the Boston area. She also drank heavily, got herself strung out on coke, and discovered that boyfriends could beat her just like her father.

One night, while she was crashing from a two-week binge of coke, mescaline, and alcohol, it occurred to her that she had hit rock bottom, and she decided to go home. But her parents had moved and left no forwarding address. Standing in front of what used to be her home, at midnight, she realized that she had absolutely no place to go where she might be wanted...[Source: The Bridge, Inc.]

Studies reveal that there is no one composite picture of a runaway. Many may exhibit behaviors, lifestyles, and family patterns similar to Patti's; but each one operates under a unique set of predispositions, assumptions about life, and circumstances. Estimates are that over two thousand children run away each year, and, in the opinion of many experienced professionals, significant additional numbers go uncounted. Some are adjudicated for delinquency, some are identified in Care and Protection proceedings, and others simply disappear. So, against the will of their parents or guardians or, as in some cases, with their parents' encouragement, several thousand Massachusetts children under the age of seventeen leave their homes each year and take up lives that are basically unsupervised and unsupported by adults.

Some experts argue that children who leave home over issues of miscommunication, temporary conflict or disruption, or to establish independence should not be considered legitimate runaways. They point out that many live with friends or relatives temporarily, and are likely to return home after a "cooling off" period during which their parents are aware of their whereabouts. But, while it is believed that an undetermined number run away only once or periodically for short periods of time, it is still true that a significant number of others become permanently absent from their homes; and some studies indicate that runaway and homeless are generally younger, more abused and neglected, and more emotionally disturbed than ever before noted. There is evidence of a rise in the number of minority youth running away, and, where formerly there were equal numbers of male and female runaways, there are indications of a rise in the number of females leaving home.

Numerous studies point out that a significant number run away from home after deciding that a life on their own, on the streets, or with friends or relatives, is a matter of necessity. At home they may be suffering hunger, repeated physical, sexual or emotional abuse, neglect, or family indifference to their problems. Social service professionals frequently identify these children as "survivors" who, by virtue of running away from a bad situation at home, are, in fact, seeking help, recovery, and a better life for themselves--some, in fact, are proud of the fact that they are no longer a financial burden to their parents.

Inevitably, however, even though some children flee home to escape poverty or seriously disturbed family situations, a significant number end up on the streets or in unsupervised environments where there is increased likelihood of involvement with drugs and alcohol, crime, and numerous health and safety hazards. Social service providers report an increasing number of adolescents who are described as chronic runners, youth who experience a wide range of complex problems and repeated failure to find support or solutions to their problems. Many do not recognize the desperateness of their situation and will not seek help. Some who do may live in

areas where appropriate services do not exist or may not qualify for services under existing statutes or policy. Still others have had negative experiences with courts, schools and social service programs in the past, don't trust adults, and choose to avoid them entirely.

CHILDREN WHO DON'T GO TO SCHOOL

"JOE"

On paper, Joe is enrolled in the seventh grade at his middle school. In practice, Joe has not been to school for six months. At 15, he cannot be formally counted as a dropout, but he has virtually withdrawn from school.

Joe does not like to talk specifically about why he does not go to school. He is not worried about his personal safety or possessions. He likes the principal and his math class. Still, Joe has been truant on and off for two years. If the weather is cold, Joe would rather stay home. If the weather is nice, Joe prefers to stay outside. Joe says, "Sometimes the teachers get on [my] nerves," and he reports he has been disciplined for "yelling back" at them. After being warned he will repeat seventh grade because of his absence, he stopped attending in December. He spends most of his time at the basketball court, "hanging" with other young people who are out of school.

Joe reports that when he "hooks," the school "doesn't call [his] house or anything." At one point, however, the school filed a CHINS petition to deal with his truancy. In court, the judge admonished him, telling him, "Just go to school. You're college material. You can pass." This did not persuade Joe, and he reports since the school never called his house after the court appearance, he had no incentive to attend.

Joe knows he will be held back this year because of truancy, for he has already received several warning notices from his school. While this happened last year, Joe managed to get by because he did very well academically, and he felt good when he passed. This year Joe thinks his friends will tease him for being held back, and next year he hopes to participate in RECAP to make up the lost year.

Joe wants to graduate from high school and go on to college. When Joe returned to school after long absences in the past, some teachers told him they were glad to have him back. His teachers, Joe says, think he can do the work and tell him his achievement is exceptional when he attends. In the meantime, Joe wishes all his teachers would do more than "just give the work out and not teach it." He openly expresses the wishes that his school had more pleasant space, better equipment, and more sports. In his ideal school, he would keep some teachers and change others. He wishes he had not stopped attending. ["The Way Out", 1987]

While there is little reliable data available on rates of truancy around the Commonwealth, most national studies concerning students who leave school before graduating point to frequent and prolonged unexplained absence from school as a fairly reliable indicator that a student is likely to be expelled, be dropped from the roles or leave school voluntarily prior to completion.

Perhaps because state law requires that parents and schools must enroll all children between the ages of six and sixteen, and each school committee must employ a state certified Supervisor of Attendance who is empowered to go to court in order to seek parental compliance with the mandatory school attendance law, truancy reports form the basis of almost half of all CHINS petitions filed in the Massachusetts Trial Courts each year.

National studies on problem attendance, indicate that the highest percentage of students adjudicated as truants are between the ages of 13 and 15. While reliable Massachusetts data is scant, educators, researchers, court officials, and social service professionals generally agree that children and youth experiencing school attendance problems present profiles which are various, complex, and disturbing in light of rising rates of students leaving school before graduating.

Students nationwide who do not attend school regularly report a myriad of reasons well documented in Bernard Lefkowitz's recently published book, Tough Change, Growing Up On Your Own In America, and verified by the testimony and experience of youth seen by schools, courts and social service providers in the Commonwealth. Among the most common and notable reasons given for not attending school are boredom, family problems, fatigue, poor grades, alienation from teachers, administrators or peers, a history of suspensions and expulsions for disciplinary infractions, pregnancy, child bearing and child rearing responsibilities, substance abuse and other untreated medical problems, financial problems, need for independence, and lack of interest in education and learning.

Some experts suggest that schools are overly repressive and are failing to take seriously the complexity of students' lives and the need to tailor school programs to meet students needs. Others point to the rising number of applications for work permits from fourteen year olds reflecting a huge demand for cheap labor and a desire on the part of adolescents (with encouragement, frequently, from parents) to take advantage of employment opportunities at the expense of getting an education. Still others cite increasing rates of drug and alcohol abuse, child abuse and neglect, family conflict, clinical depression, health problems, and the negative efforts of poverty, racism, and inadequate parental and community support for schools and educational services.

However, as fully described in the extensive chapter of this report which follows, the profiles of students who have problems attending school are, most likely, the result of a complex web of institutional, political, economic, social and personal factors which come to bear on children and families in the 1980's.

THE MOST DIFFICULT AND TROUBLED CHILDREN

"RON"

The service plan for Ron, all agreed, was to enroll him in a residential treatment program. He had stabilized adequately during his shelter stay, which ended prior to the treatment program's application process. When confronted with the fact that his temporary shelter would be extended, Ron became increasing agitated. His mother agreed to take him home until the residential program was ready to admit him, although the home environment was inadequately structured for Ron and his father's abusive nature had a poor effect on Ron's behavior. Ron never made it to residential care although the placement was eventually arranged for him. Instead he spent most nights on the streets, afraid to return home to his father, and eventually ended up in jail after mugging an elderly woman. ["Ride A Painted Pony," 1985]

"DOREEN"

Doreen, a 15 year old, grew up in an abusive home. Removed at age 13, she has lived in a foster home for the past two years. Eventually, her foster parents found her "troublesome behavior" intolerable and evicted her. Their reasons were her disobeying a curfew and being caught drinking beer one evening. Doreen spent two consecutive months in emergency shelter care. While initially responsive and cooperative, her behavior became increasingly disobedient as the 60 days passed. Her worker was able to place her in a 90 day diagnostic program where she reportedly needed restraint for kicking and biting. Ninety days later, with no place to go, Doreen was referred back to the emergency shelter she had left three months earlier. ["Ride a Painted Pony", 1985]

While most CHINS youth experience a number of problems simultaneously, some experience problems repeatedly over a long period of time and do not, or cannot, respond readily to interventions by parents, schools, social services or law enforcement agencies. These children constitute a small (but growing) significantly troubled and problematic portion of the entire CHINS population. In Massachusetts, only about 24% of CHINS adjudicated youth involved with the Department of Social Services ultimately become involved with crime and participate in DYS programs, placing the estimated number of chronically troubled children at between two and four hundred per year.

However, a Boston youth shelter, Bridge Over Troubled Waters, surveyed their clients in 1987 and found them to be a significantly more troubled population than in 1983. These children are most likely to suffer persistent health problems, violence, abuse, neglect, drug and alcohol dependency and educational deficiencies; and they are less likely to seek help from traditional sources of social and educational services. For most, their parents and numerous human service professionals, educators, and law enforcement professionals have become totally frustrated in their attempts to intervene.

The profiles of the most troubled CHINS youth contain a myriad of observations about their behavior and conditions of life, many of which have been confirmed by the Commission:

- Many in this population have had their family fall apart and have experienced a chaotic, and disturbed history of chronic unresolved conflict and family violence.

- Drug and alcohol dependency rates are high among seriously troubled CHINS youth, and their family members and friends are likely to suffer from addictions as well.

- The rate of abuse and neglect experienced by children who repeatedly run away from home is statistically high.

- Clinically speaking, seriously troubled CHINS youth typically act out rather than withdraw. Most clinicians report that these youth are characteristically lonely, depressed, have little or no self-esteem and do not trust anyone, especially adult authority figures. While some are no longer attached to their families at all, others are symbiotically connected and find it almost impossible to develop independence of any kind. Most feel they have little, if any, control over their lives.

- Many of the most troubled children have family or job responsibilities unmet educational needs or a history of conflicts with school officials which make success in school difficult, if not impossible. In fact, most are unlikely to be attending school at all.

- Many of the most troubled children have been neither supervised nor supported by any responsible adult for a significant period of time prior to their identification as a CHINS case. Some have been on the streets. Others, while still residing at home, may lack attention from parents or guardians who are busy either working two or three jobs or seeking employment, or are suffering debilitating physical or mental illness or addictions which impair their ability to supervise their children adequately. In fact, many CHINS youth experience repeated contact with the court due to unresolved family and school problems or lack of school or parent involvement in service plans.

- Some children are inadequately served due to improper assessment procedures, misdiagnoses, inappropriate service plans or simple lack of resources to provide adequate service. In some cases, they use the services offered, find that their problems are not resolved, and decide to reject the services or leave the placement, leaving them open to citation for contempt of court and referral to the Department of Youth Services as a delinquent.

- Some children have become hardened and resist changing their behavior or complying with the instructions of family, school, social service or court officials. For them, accountability and responsibility have meaning primarily (if not solely) in terms of peer group loyalty as opposed to the values and norms of parents, teachers, social workers or any other custodial figures.

While some troubled children have been in the custody of the Commonwealth since childhood, others who are in desperate need of services go largely unidentified, unserved or underserved due

to lack of adequate programs, resources and systems in place to identify, assess, and treat this segment of the CHINS population. Their behavior often cannot be handled in existing programs; many have experienced multiple moves and failed placements to the point where they become aware that they cannot be contained or controlled. Eventually they become involved in a cycle of self-fulfilling prophesies, because, ironically, they learn how to manipulate or elude a system which is unable, or unwilling to, protect, control, nurture, heal or educate them.

FAMILIES IN NEED OF SERVICES

While the Commission has not been equipped to conduct primary demographic research on the status of Massachusetts CHINS youth or their families, it has noted some family characteristics which, nationwide and irrespective of family income or marital status, are also familiar to professionals working with CHINS youth in Massachusetts:

- Unrelenting marital discord, domestic violence, and untreated substance abuse impair parents' capacity to pay attention to the needs of their children, may result in physical and mental abuse or neglect of children and long term physical, emotional, and psychological harm to the family unit.

- In some families rules and behavioral limits are unclear, erratically enforced, unenforced, or too strenuously enforced. Adolescents frequently gain power over the family by acting out in anger and frustration.

- Many, although not all, siblings of CHINS youth also exhibit anti-social behavior when exposed to negative family patterns which have developed over generations.

- In some families, parents have unrealistically high expectations of children which, when not met, produce frustration, disappointment, and anger at the child.

- Many families, especially those headed by single working parents, are forced by economic necessity and lack of day care to choose between working and supervising their children.

- Families which have problems meeting the basic needs - affordable housing, food, health care, and clothing - frequently experience stress which affects their ability to nurture and rear children.

In some cases, nothing seems to help. Families participate in mediation, long-term therapy, and a variety of court, school and social service sponsored programs to no avail. The child goes in and out of hospitals, schools, foster homes, and special programs. Parents give up, frustrated, hurt, puzzled, and angry--angry at themselves, the child, the courts, the schools, the social service agencies, the legislature, and the "system" that has no solutions to their family's plight. Likewise,

school and court officials, teachers, probation officers, counselors, and social workers may give up as well, leaving the child virtually on his or her own.

OBSERVATIONS

- CHINS youth are not a homogeneous group--they present a range of behaviors and service needs almost as diverse as the population itself. Many experience a number and variety of different problems and needs simultaneously--in the family, in school and in the community at large.

- Persistent running away from home, not attending school regularly, and defying parental and school authority are behaviors which, more often than not, are symtomatic of deep-rooted problems brought on as a result of a child's reaction to painful circumstances including patterns of family conflict and violence, physical, emotional or sexual abuse, neglect, inappropriate or nonexistent supervision or discipline, substance abuse, racial, ethnic, liguistic, or gender discrimination, poverty, or school failure.

Children's problems can be surprisingly complex and severe and rooted in institutional, economic, social, and personal conditions which may be pervasive, generational, and beyond their control.

- Some children experience mental and physical problems which, when left undiagnosed and untreated, serve to increase the odds that serious long term illness will result. More frequently than ever in recent memory children are now afflicted with depression, nervous anxiety, and stress disorders as well as high blood pressure, venereal desease, and drug and alcohol dependancies previously experienced almost solely by adults.

- The use and abuse of alchohol and drugs is common among CHINS adjudicated youth as well as among their families. At least one third of the participants in the Massachusetts Department of Public Health's youth residential treatment program are CHINS youth, and 80-90% have families with members who suffer from drug or alcohol dependencies and experience high rates of home and community-based conflict and violence.

- Although not statistically documented, it is thought that a small but significant number of CHINS youth may have suffered undocumented abuse or neglect or may have committed delinquent acts which have gone undetected--these are the most troubled and troubling cases.

• Estimates indicate that almost half of all CHINS youth have serious remedial and special education needs. While some are still enrolled in school in spite of their problems, many experience school failure, are behind their grade level in academic achievement, and feel significantly alienated from school.

• CHINS youth start out like most other children--they experience short-term problems, episodic crises, and other types of personal, family, or school related problems. If, however, their conflicts with family and school do not get resolved quickly and appropriately, they tend to escalate until the child turns age sixteen and drops out of school or turns seventeen and no longer is the subject of a CHINS petition.

• Some CHINS youth are essentially living on their own--some with children of their own, some as prostitutes or dealers, alone or in groups, living in vacant buildings, others circulating among shelters, foster homes, and the street in an unending cycle of hope, disappointment and rejection.

• Prior to junior high or middle school, virtually all CHINS adjudicated youth attended school fairly regularly, and it is estimated that about one third of the current CHINS population has received some service and support from various public and private social service agencies prior to their involvement with the courts.

FINDINGS AND RECOMMENDATIONS

(1)

FINDING: Parents who lack the resources necessary to provide themselves and their children with basic needs such as adequate housing, food, clothing, child care, and medical attention are likely to experience high levels of stress and increased difficulty coping with the challenges of raising children...

RECOMMENDATION: Steps should be taken to provide affordable access to child care, health care, and housing for families with children.

(2)

FINDING: Early identification, assessment, diagnosis, and resolution of communication, health or learning problems can do much to prevent family problems from escalating and putting children at risk of academic failure and conflict with family and school authority...

RECOMMENDATION: School and community-based programs should be developed to provide assessment, diagnostic, and referral services especially for adolescents and their families.

(3)

FINDING: Families and children in serious conflict commonly require assistance in resolving persistent problems involving family, school, and the community...

RECOMMENDATION: Confidential, community-based family mediation services should be made available across the Commonwealth.

(4)

FINDING: Parental participation is important in the process of helping children resolve conflicts which may lead them to act out negatively or endanger their safety or security...

RECOMMENDATION: Parent education programs should be made available statewide to provide information and support to parents encountering problems dealing with their children or adolescents.

(5)

FINDING: Children who are unable to remain at home or who, even after a cooling off period, are not able to be reunited with family, need community-based, supervised care which emphasizes attention to unmet needs, unresolved problems, and continued schooling from consistent, specially trained professionals with expertise in helping adolescents regain stability and self respect...

RECOMMENDATION: Community-based shelters, specialized foster care programs and transitional living programs for adolescents should be made available statewide in conjunction with existing schools, medical facilities, and human service providers.

(6)

FINDING: Demographic data and information on the status of CHINS cases or children and families in need of services is not systematically collected or analyzed statewide:

RECOMMENDATION: Statistical information should be collected annually and formal research conducted in the following areas related to CHINS youth, their needs, and services:

- **Statewide demographic data on both formal and informal cases;**
- **Existing services;**
- **Unmet needs;**
- **Gaps in service;**
- **Patterns and trends in service delivery;**
- **Case outcomes;**
- **Cost effectiveness of children and family services;**
- **Predictions of need for service**
- **The impact of court involvement; and**
- **Successful models of support.**

CHAPTER II

THE ROLES AND RESPONSIBILITIES OF PUBLIC SCHOOLS

The school is the principal institution outside of the family whose primary concern is the well being and development of children . Aside from parents, no other single institution contributes as much to the intellectual, social, and emotional growth of a child than does the school. The school, like the family, has the unique capacity to see individual children with consistency and, therefore, has the potential to play a vital role in their social and intellectual development.

In fact, the Massachusetts system of public primary and secondary education has served to prepare many millions of our residents for further education and employment, while responding to tremendous changes in the larger society and, more than any other public institution, suffering from escalating responsibilities, frequent criticism, and rare praise. Numerous studies cite the increased emphasis on schooling in the lives of children and youth in this nation over the past one hundred years - a century ago only 5% of 16 year olds were enrolled in school and, in 1986, over 90% were.

However, nationally and in Massachusetts, the substantial achievement of providing increased access to public elementary and secondary education is fast becoming overshadowed by disturbing statistics which indicate that one in every four students who enroll in ninth grade is likely to leave school prior to graduation--and those numbers are even higher in many urban and rural districts. At a time when the new "information society" will require better educated workers who are creative and can integrate, interpret and evaluate information, a one hundred year trend toward higher rates of high school completion has been reversed within the past decade. [Comer (1986), Lefkowitz (1987)]

The good news is that the findings of school effectiveness research stress the important message that schools do make a difference. Studies of the impact of Chapter 1 and Head Start programs, for example, are encouraging. However, the bad news is that a significant number of eligible students are not reached by such programs and are not succeeding in obtaining an education at a time when,

for the first time in history, people must obtain a formal education to stand a good chance of successfully accomplishing adult tasks. [Comer, 1986]

What can the schools do to reverse this trend? The Commission's study of conditions surrounding and leading to CHINS petitions being issued in Massachusetts for truancy and problem behavior in school indicates that the schools themselves must find new and better ways of responding to the contemporary needs of children and adolescents in order for schooling to succeed.

Statistics show an increase in reported problem attendance, truancy and serious behavior problems in schools reflecting the existence of stresses in the community, family, and school caused by changes in society which must be acknowledged and addressed. For example, family structures have shifted dramatically over the past twenty years from a predominance of so-called "traditional two parent families" to a predominance of single parent and reconstituted families, full-time employment is an economic necessity for virtually all parents, and, in many communities, fewer than 20% of the voters have children of school age thus reducing "natural" community interest in education.

Schools must be revitalized and encouraged to reach out in creative and highly visible ways--first, to children and adolescents who are struggling and coping with previously unheard of stresses resulting from recent social, political and economic change, and, equally, to their parents and other members of the community who recognize the importance of education to the future of children, families, business, and government.

Research shows a direct correlation between a positive self-concept and the desire to achieve in school. Therefore, every effort should be made to help each student develop a solid base for self-esteem, including a sense of individuality and pride in one's accomplishments, and to provide a feeling of security within the school environment and community. Teachers and administrators should build constructive relationships with the students in their charge, convey high expectations to them, and demonstrate their conviction that all students can learn...

Some students suffer from economic deprivation -- lack of adequate food, clothing and shelter. Poverty seriously affects the lives of thousands of children and their ability to achieve in school. The school's obligation to nurture these children -- to help them overcome barriers to achievement -- should be among its highest priorities.

Educational institutions can accomplish this goal only by working in concert with the family and other community agencies. The school, however, should be a focal point for affecting every child's physical and emotional well-being in a positive way. [Goals for Education in Massachusetts, 1987]

WORKING PREMISES

• The Commission supports the compulsory school attendance requirement, and believes that it is the job of the schools to teach the value of education by making it a worthwhile experience. Children must be invested in their own education, and it is the function of the schools to develop a methodology to educate parents and other concerned citizens about the tangible value of taking an active role in the educating of children, especially those who are experiencing barriers and obstacles to obtaining the benefits of an education.

• The Commission acknowledges that, for adolescents in 1987, life is far more complex a matter than simply going to school, doing homework, and having fun. Erratic school attendance, truancy, and frequent tardiness should be perceived by schools, agencies and parents as signals of barriers to student achievement and school attendance which may stem from parental neglect or disinterest, disability, fear of violence or harassment at or on the way to school, lack of motivation to learn, chronic untreated mental or physical health problems, family conflict, differing cultural norms related to the importance of schooling, substance abuse, homelessness, frequent failure or punishment at school, peer pressure, child-rearing, family or employment responsibilities, chronic fatigue, pregnancy, and numerous other conditions of life which can affect students' ability or desire to attend school.

• The Commission acknowledges the toll taken by recent demographic, social, economic, political changes on schools and communities charged with providing education for our children and youth. In the wake of Proposition 2 1/2 and recent cutbacks in local aid, while some progress has been

made through enactment of Chapter 188, it has been insufficient in amount to overcome the disparity in property tax revenues for pupil expenditures throughout the state. Comprehensive and expensive remedies to address the needs of weakened school districts will be needed in order to strengthen their ability to serve children who require additional support and attention in order to continue their schooling.

• The Commission believes that schools are in a unique position to identify and assist children and youth who are experiencing barriers to success in school and limitations on their ability to thrive. In order to make the most of this opportunity, Massachusetts school committees must ensure that:

> o Academic learning is understood as a product of overall child development and not an isolated mechanical function determined almost entirely by the child's innate intelligence and will;
>
> o Teachers, administrators, counselors and support staff receive preservice and inservice training that gives them up-to-date information about community services and the knowledge and skills to create a safe, secure, and nurturing school climate which promotes learning and development; and
>
> o School personnel are rewarded on the basis of their capacity to work in a collaborative fashion with colleagues, parents, and community as well as for their mastery of academic content and teaching methods. [Comer, 1986]

• The Commission believes that schools play a key role in the design and implementation of programs which can do much to prevent conditions which contribute to children and youth failing in school, the home, and the community. When planned in cooperation with parents, social service providers, law enforcement and court officials, health officials and other such experts, school-based health education, physical education, recreation, and human service programs will do much to ensure that all children can learn and lead healthy, safe, productive lives.

• The Commission notes that while schools commonly are granted rights of "in loco parentis", they are not isolated from the community and are subject to local and state authority and the rights and responsibilities of parents, courts, and other state and local agencies charged with the care and protection of children and youth. It is the responsibility of the school committee to ensure that every effort is made to promote a positive relationship between schools and parents and an atmosphere of cooperation between the school and all institutions and individuals which deal with school age children and youth. It is equally important that outside agencies, institutions, and individuals involve educators and school officials in decisions about the lives of children and youth under their purview as well.

OBSERVATIONS AND RECOMMENDATIONS

A. PREVENTION AND EARLY INTERVENTION

... Each school committee should be encouraged to provide well-coordinated, sequential and age appropriate comprehensive health education and human service programs for all students, grades PK-12.

The Commission has observed that...

- A recent national public health study found that there is an increase in the variety and number of incidents of adult diseases among American children due to poor physical conditioning, diet, and health habits. Adolescent depression, substance abuse, suicide, and teen pregnancy are also being documented at higher rates nationwide and in Massachusetts.

- While required to be offered in Massachusetts public schools, health education is largely taught in a piecemeal, "crisis oriented" fashion with little documented lasting effect on student behavior.

- Counseling and psychological services (other than Chapter 766 related) are not mandated statewide, and, where present, have been curtailed, cutback, and, in some cases, virtually eliminated due to competing educational priorities such as improved basic skills. The most severely affected services have been in the elementary and middle school areas.

- Competing mandates as well as a lack of adequate resources and cooperation between and among parents, schools, and health and social service agencies have led to incidents of duplicated services, interagency competition, and, at worst, children and youth going unserved. Interagency haggling over who is responsible for funding services can lead to incidents of agencies fighting to avoid paying for expensive service plans.

The Commission has seen some signs of progress...

- For the first time in its history, the Massachusetts Legislature has appropriated funds specifically for grants to school districts for comprehensive health and human service programs in schools and established a statewide health education and human service advisory council to oversee the development of that program.

- The legislature has recently established a broad-based State Coordinating Council on Adolescent Health Care which will specifically address the issues of how best to serve the growing health care needs of pregnant and parenting teenagers.

- The Governor's Alliance Against Drugs promotes the idea that substance abuse prevention education should be taught within the context of a comprehensive, sequential, PK-12 program of health education and human services.

- An AIDS teaching guide, developed collaboratively between the State Departments of Public Health and Education with assistance from numerous citizen groups and private agencies, emphasizes the importance of AIDS education being

planned locally and conducted within the context of a comprehensive health curriculum and a school-based counseling and psychological services program.

- Within the past year, over fifty school districts have established local health education and human service councils and used state funds to plan and develop a comprehensive PK-12 health education curriculum and school-based human service program.

Recommendations

1. COMPREHENSIVE HEALTH EDUCATION AND HUMAN SERVICE PROGRAMS IN EVERY SCHOOL... Every school committee in the Commonwealth should be encouraged to provide a well-coordinated, sequential and age-appropriate comprehensive health education and human service program for all students, each year, in grades PK-12. Such a program should teach communication, problem-solving, decision-making, and conflict-resolution skills, should promote the prevention of substance abuse, family violence, suicide and teenage pregnancy, and should make sound and appropriate health information and counseling services available to students and their parents.

2. LOCAL ADVISORY COUNCILS AND COMMUNITY INVOLVEMENT... School committees should involve community members, parents, educators, counselors, human service providers and secondary school students in the development of health and human service programs. A Health Education and Human Services Advisory Council comprised of secondary school students, and elementary and secondary school teachers, counselors, parents, administrators, school psychologists, school health professionals, and local, county, and state agency personnel should be appointed to:

(a) assess the need for health education and counseling services;

(b) recommend goals and objectives for such programs;

(c) recommend ways of maximizing the effectiveness of existing services and personnel;

(d) evaluate and disseminate information about programs;

(e) plan for and assist in coordination of local agency services with school services; and

(f) recommend strategies for filling gaps in service;

3. INSERVICE EDUCATION FOR TEACHERS AND COUNSELORS...School districts, with assistance from local human service agencies, should provide and coordinate appropriate opportunities for inservice education for existing staff in order to implement health education and human service programs.

4. PASSAGE AND FUNDING OF H. 4825...The Governor and General Court should provide incentives for school districts to establish comprehensive health education and human service programs by enacting and fully funding H.

4825, "An Act To Prevent Abuse and Strengthen The Family Through Comprehensive Health Education And Human Services in The Public Schools".

5. MANDATED AND FUNDED SCHOOL COUNSELLING SERVICES... Starting with the elementary schools, the Commonwealth should require that counselling services be made available to staff, students, and parents connected with every school and provide cost reimbursement to cities and towns for provision of such services for a period of up to ten years.

B.PROGRAMS TO ENCOURAGE ATTENDANCE AND SCHOOL COMPLETION

...School committees and communities should identify the changing needs, cultural norms, and differing experience of children and youth, and develop policies and programs which promote school completion, acknowledge the realities of contemporary student and family life, and accommodate their needs.

The Commission has observed that...

- Significant numbers of youth are absent or leave school for "reasons unknown." Neither the State nor school districts have adequate data on non-attendance.

- In schools where disciplinary "due process" is short-circuited or behavioral symptoms of school or family problems ignored, some students give up easily in the face of repeated punishment and end up dropping out.

- With the increase in teenage parenting rates and the number of adolescents who must work to support themselves and their families, some students have parenting and employment responsibilities which necessitate their taking "time out" from attendance in a standard school program.

- Increased numbers of students have been exposed to drug and alcohol use without education, guidance, or supervision,

- Over 50% of students enrolled in school are living in single-parent families, and, in some areas of the Commonwealth, 50% of those families are living below the poverty level and are in dire need of social, educational and economic support.

- Many students who don't attend school report that they have had numerous school-related problems such as repeated academic failure leading to retention in grade level, inappropriate curriculum or placement, lack of adult contact or supervision, lack of discipline code, uneven and unfair discipline policy enforcement, and repeated disciplinary infractions.

- Some children and youth do not have a home where they are safe from harm and neglect; they are part of families in conflict or chaos or are growing up in a family which is homeless.

- Once a student "drops out" or is encouraged to leave school, rarely does he or she return to any educational program at all.

The Commission has noted some progress...

- New state and local programs for pregnant and parenting teens are helping young women and men continue their education while fulfilling their family responsibilities by providing on-site day care in high schools and parenting programs for both young men and women.

- Out-of-school suspension as a punishment for absence has been replaced by in-school suspension in several districts. In addition, some districts are developing alternative education, counseling, and social development programs for students experiencing difficulty attending school regularly.

- Several school district superintendents and mayors have documented and publicly acknowledged high drop-out rates and the inability of the community and schools to fully educate and support a significant portion of the youth population, prompting public support for school improvement and programs to increase school attendance and completion rates.

- Some schools have implemented in-school mediation services which provide avenues and procedures for students, faculty, and school officials to work out appropriate and equitable solutions to school conduct problems.

- Furlough" programs have been developed by some schools thus allowing students to leave and re-enter school when necessary.

- Some districts have increased family involvement in education through school and community-based adult basic education programs designed to meet the needs of undereducated parents

- Some districts are re-establishing positions for school adjustment counselors and school psychologists which were eliminated by Proposition 2 1/2 cuts.

Recommedations

1. SYSTEMATIC COLLECTION AND ANALYSIS OF SCHOOL ATTENDANCE DATA ...Each school district should investigate reasons students are not attending or are attending irregularly, not to "typecast" such students or their families, but to take into consideration their unique needs and expectations of schooling when planning educational and support programs.

2. SCHOOL IMPROVEMENT PLANNING...Each school district should develop a school improvement plan which addresses unmet needs of high risk students and provides leadership in the areas of educational programming and school conduct policy. Alternative education programs and special services should be made readily available to all children and youth regardless of ability to attend regularly

3. HUMAN SERVICE PROGRAMS IN EVERY SCHOOL...Human service programs which increase availability of counseling, psychological services, and health services should be established in every school district.

4. FUNDING FOR PUBLIC EDUCATION REFORM...The state should adequately fund Chapter 188 programs, the Commonwealth Inservice Institute, the

Leadership Academy, Adult Basic Education, and Comprehensive Health Education and Human Service programs in school districts which meet program criteria .

C. SCHOOL ATTENDANCE POLICIES AND PRACTICES

...Schools should ensure that new or existing school policies and practices do not inadvertently encourage or virtually demand that students become non-attendees or court adjudicated truants.

The Commission has observed that...

- Some students today have family or employment responsibilities, addictions, illness or health related conditions such as pregnancy, which, out of necessity, prohibit them from following a standard daily schedule of attendance at schools.

- Some schools in the Commonwealth have policies which require students to be suspended from school for excessive absence and forbid students to make-up work missed during the suspension, thus causing students to fall further behind academically. In some cases, this policy helps students who are experiencing difficulty attending school to avoid school responsibilities altogether and drop-out entirely.

- Some schools permit teachers to fail students or lower their grades automatically after a specified number of unexcused or even excused absences from class, whether or not all class and homework was completed satisfactorily, thus encouraging some students to give up, flunk out, or lose confidence in their ability to learn.

- Some schools have no policy or procedure specifying actions to be taken when students are tardy, absent or missing, especially when parents are unavailable or unable to assist, thus increasing the chances that school non-attendance will continue and escalate through neglect by both family and school.

The Commission has noted some progress...

- Chapter 188 Essential Skills Drop-out Prevention and Commonwealth Futures programs have developed alternative models of schooling which promote flexible scheduling for students who require it in order to continue their education.

- Some school districts have eliminated so-called "academic punishment," rewarded students who attend class regularly, and rewarded those teachers who make special efforts to reach and teach students who are having trouble attending.

- Some school districts have assessed their attendance policies for barriers to attendance and taken steps to eliminate such policies and practices which serve to make it difficult for some students to attend or re-enter school.

- Some school districts have eliminated out-of-school suspension as a punishment for non-attendance and replaced it with in-school suspension which provides additional instruction, supervision, and support for students who attend irregularly.

• Some school districts have made special efforts to reach and involve working parents, parents who do not speak English, parents who may need support services themselves, and foster parents.

Recommendations

1. STATE MONITORING OF SCHOOL ATTENDANCE POLICIES...The State Department of Education should be required to review and approve school attendance policies for their effectiveness in promoting attendance and providing due process. Specifically schools should be required to:

(a) outline steps which students or parents may take to appeal disciplinary action taken based on attendance rules;

(b) show evidence of regular and systematic review of school policy and programs by a school committee appointed panel of parents, students, teachers, counselors, administrators, and others concerned with school conduct;

(c) show evidence of a plan to contact parents or guardians in case of tardiness or absence; and

(d) develop a written policy which specifies what steps the school will take to investigate and seek remedies for persistent school attendance problems.

2. STATE MONITORING OF STANDARDS FOR SUPERVISORS OF ATTENDANCE...The State Department of Education should monitor and enforce existing standards for Supervisors of Attendance and enforce the requirement that each district appoint fully qualified and certified Personnel.

3. PARTICIPATION OF SUPERVISORS OF ATTENDANCE IN SCHOOL POLICY
...School districts should require that Supervisors of Attendance participate in the development and implementation of attendance policies and programs which encourage students to complete their education.

D. INDIVIDUAL STUDENT SERVICE PLANS

...Schools should routinely investigate and follow up on children and youth who are excessively tardy, absent, withdrawn, aggressive or are frequently accused of breaking the rules and, after assessment, an appropriate supportive service plan should be developed for each student in need.

The Commission has observed that

• Research and experience indicates that many students who leave school prior to completion have had long-standing histories of unnoticed or unchallenged school absenteeism or anti-social behavior in school.

o Early intervention is likely to reduce the risk of school problems escalating for students and their families. Many youth formerly "in trouble" report that the timely intervention of a single trusted adult made the difference in their lives.

o Coordinated, consistent efforts to encourage positive school experiences for high risk students are likely to require extensive involvement of parents and the commitment, leadership, and cooperation of numerous professionals and their agencies.

The Commission has noted some progress...

o Opportunities for interagency cooperation in solving school problems have been dramatically increased since the enactment of Chapter 188 and the attendant establishment of School Improvement Councils, Drop-Out Prevention Councils, and other vehicles for parent, agency, and community participation.

o Over fifty school districts have established Health and Human Service Advisory Councils, received state grants and developed full scale plans for comprehensive health education and human service programs.

o Chapter 766, the Special Education Statute, has a ten year history of successfully fostering support for children with special needs through the cooperative development of individual education plans.

o Chapter 188 Essential Skills Drop-Out Prevention programs are promoting evaluation of new and existing school programs and policies for their impact on student attendance and school completion rates.

Recommendations

1. REDEFINITION OF CHINS STATUTE TO FOCUS ON FAMILY SERVICES...
There should be a redefinition of the CHINS Statute to focus on the needs of the child within the context of the family. Schools cannot ignore the family context when serving a child and must be able to obtain the cooperation of the appropriate agencies in addressing the needs of a child's family if progress is going to be made in meeting the child's educational needs.

2. ELIMINATION OF SCHOOL POLICIES WHICH DISCOURAGE ATTENDANCE
...Each school should be encouraged to develop a process for identifying and eliminating school policies, procedures, rules, and practices that appear to present barriers to the regular and successful attendance of students.

3. DEVELOPMENT OF STUDENT SUPPORT SYSTEMS...Each school should be encouraged to develop and implement a system of locating and supporting students who are experiencing chronic absenteeism, tardiness, disciplinary problems, or academic failure.

4. MORE SOCIAL SERVICE AGENCY SUPPORT FOR SCHOOLS...State and local social service agencies should seek ways to assist

schools in supporting high risk students through active participation in the development of Individual Service Plans.

5. STATE FUNDING FOR INDIVIDUAL SERVICE PLAN COORDINATION... The state should provide adequate funding for administrative coordination of the individual service plan system. Each school district should be enabled to hire personnel in every school to coordinate the internal and external referral process.

E. INCREASED AND IMPROVED COOPERATION AMONG SCHOOLS, FAMILIES AND SOCIAL SERVICE AGENCIES

...Children and youth who are unable or unwilling to attend school or conform to its rules should be assessed and have access to a network of professionals and their agencies working in "sync" with each other to assist the child or youth and his or her family in resolving problems and eliminating barriers to successfully completing school.

The Commission has observed that...

o Currently there is no one organizational structure at the state level which effectively coordinates or tracks the numerous state and local agency initiatives to promote health, education and social services for children, youth and their families. Human service agencies, the Department of Education, the various courts, and the over 350 school districts are all mandated to serve children but are largely uncoordinated with each other.

o Numerous complex and diverse state, federal and local statutes, regulations, policies and bureaucracies tend to obstruct rather than enhance coordinated planning, and create redundancies or gaps in health, education, and welfare services for children and families.

o It is frequently difficult for professionals from different agencies to communicate effectively with each other, even about mutual clients. Conflicting schedules, priorities, and perspectives on causality and solutions to problems get in the way of communication, joint planning and coordination. Even within the same school district, services to a high risk students may be fragmented among special education, guidance, and regular education programs.

The Commission has seen some signs of progress...

o Education and human service collaboratives such as the Boston Human Service Collaborative are showing promise as models of jointly planned and implemented school-based and community-based services to children, youth, and their families.

o Community-wide drop-out prevention projects in eight cities participating in the Commonwealth Futures project are models of interagency cooperation which are developing local programs to improve schooling and retain students through high school completion.

o The Secretary of Human Services has convened a Children's Issues Task Force with representatives from state agencies, and child advocacy groups, service providers, and legislative leaders from special commissions on children's issues. This task force, in cooperation with the EOHS commissioners and the Commissioner of Education, is developing a series of strategies to address problems and needs occuring in the children's' service delivery network.

Recommendations

1. STATE LEVEL PLANNING AND COORDINATION OF SERVICES TO SCHOOLS... The Governor and the State Board of Education should establish a permanent group at the state level which would conduct long-range planning to meet the needs of schools and children. Serious consideration should be given to utilizing the newly established State Advisory Council on Health Education and Human Services which represents state agencies, business, human service providers and school personnel.

2. LOCAL PLANNING COUNCILS FOR YOUTH SERVICES...Communities should establish a new or a revitalized existing local planning council which conducts research on local family, child and youth needs in cooperation with the area Council for Children and all local and state agencies who deal with youth.

F. COURTS AND SCHOOLS

...Where and when necessary, courts and schools should cooperate in developing programs which divert CHINS youth away from involvement with the court system and guarantee that schooling continues.

The Commission has observed that...

o Probation officials in some jurisdictions are reporting difficulty in obtaining appropriate educational services for CHINS youth.

o Courts generally are not equipped to assess the educational needs of children and youth.

o Should a child or youth be referred to a court on any status offense charge, schooling is more likely to be interrupted.

The Commission has seen some signs for progress...

o In the case of court referred CHINS youth, probation officials often serve as advocates for children, youth and their families in obtaining the cooperation of agencies and individuals needed to assist them in resolving problems.

o The Boston Juvenile Court has established a School Resource Program which establishes liaisons between the Court and various Boston schools.

o School mediation programs are often successful in resolving cases of non-attendance and directing them away from the courts.

o Court diversion programs, such as that in place at the Dedham court which handles drug abuse cases, serve to increase communication between school, student, family and law enforcement officials.

o In some districts, probation officers have developed strong relationships with school principals and school attendance officers and serve as advisors to those school officials on an "as needed" basis.

o Court clinics in various locations serve important functions in the process of evaluating and planning services for youth before the courts.

o Alternative education programs are being developed by some school districts (with funding assistance from the courts and the newly enacted Chapter 188) to bridge the gap between non-attendance and re-entry into the regular school program where appropriate.

o In Boston, there are three locations that conduct daily, court sponsored citizenship training programs for youth.

Recommendations

1. INCREASED AVAILABILITY OF ALTERNATIVE EDUCATION PROGRAMS...
Schools should increase their efforts to develop programs which will encourage school attendance and provide alternative education programs which are readily accessible to students who cannot attend regularly scheduled classes.

2. MORE EARLY INTERVENTION EFFORTS...Schools should make a concerted effort to intervene as early as possible in the lives of students who are experiencing conflict with the school or in the family, thus resolving problems which, if left unnoticed, might escalate later and result in referrals to juvenile court.

3. MORE COOPERATION BETWEEN COURTS AND SCHOOLS...In cases of student involvement with the court, school officials and court officials should communicate with each other, and, in cooperation with the student, family, law enforcement personnel and social service professionals, develop an appropriate plan for the student's education to continue.

G. INSERVICE EDUCATION AND SCHOOL IMPROVEMENT EFFORTS

...Steps should be taken to upgrade the capacity of school personnel to find ways to help all students succeed in school.

The Commission has observed that...

o Teachers, especially those in secondary schools for whom the primary focus is subject matter mastery, frequently lack preservice training in child development and

lack access to inservice education opportunities necessary to update themselves on such matters as changing cultural norms, effects of racial, ethnic and gender stereotyping on teaching and learning, and methods of recognizing and locating appropriate services for students who are experiencing problems which interfere with learning.

o Since enactment of Proposition 2 1/2, counseling and psychological services other than those related to Chapter 766 have been greatly curtailed, especially in elementary schools. In some districts, the counselor/student ratio is 1 to 700.

o Where class sizes and case loads are large and faculty and staff cuts have reduced pupil access to alternative education and special programs, the prospect that students will not get the attention they need is greatly increased. Teachers, also, are more apt to experience morale problems and increased frustration with working conditions which interfere with their ability to teach.

o School personnel may not be familiar with their legal and procedural responsibilities pertaining to abused, neglected, or CHINS adjudicated students. In fact, there may be no standard operational policy governing these matters in a school.

o School schedules often prohibit casual interaction between teachers and students, opportunities for inservice education, or meetings between school staff, parents, and agency personnel.

o Lack of privileged communication (confidentiality) between students and teachers or counselors has a chilling effect on informal interactions which may serve to improve trust between staff and students.

The Commission has seen some signs of progress...

o Chapter 188 state funded Essential Skills Drop-out Prevention programs are planning, developing and implementing school climate improvement projects designed to encourage students to stay in school.

o As a result of a well-received study conducted by the Task Force on guidance and counselling, the Massachusetts Board of Education is preparing a new policy on the emotional development of children.

o In a few school districts, such as Worcester, there are well publicized policies and teacher and counselor training programs in place which enable school personnel to address the needs of abused or neglected students.

o Increasing numbers of school personnel are requesting funds from the Commonwealth Inservice Institute for inservice education to help them better understand the issues currently facing students and their families, matters of school climate improvement, and developmental psychology.

o Some schools are scheduling 11-14 year old students to a team of teachers in a block of academic time, thus providing teachers with opportunities for access to parents and agency personnel while at the same time assuring student supervision s ion .

Recommendations

1. INCREASED INSERVICE EDUCATION...The Attorney General should provide each school committee with an annual reminder of its responsibilities to report alleged child abuse and neglect; and, in cooperation with the Department of Social Services and the Department of Education, should provide assistance to schools on developing reporting policies and training for mandated reporters. Information on legal and procedural responsibilities as well as on specific roles and responsibilities of school-based and agency staff should be made available annually to all school personnel providing indirect as well as direct services to students.

2. LOCAL EVALUATION OF SCHOOL POLICIES...Each school committee should evaluate all school attendance policies, grading policies, and codes of conduct for potential negative impact on school climate. In particular, policies which suspend students from school for being absent, or permit teachers to fail students who complete all other requirements simply for non-attendance should be examined for their negative impact on student attitudes toward learning and school.

3. MORE COMMUNITY-BASED RESOURCES FOR SCHOOLS AND FAMILIES...
Each school district should develop a system of school and community-based resources to assist students, school staff and families in need of information and services.

4. INCREASED RELEASE TIME FOR TEACHER AND STAFF PLANNING... Each school district should provide staff with release time for inservice education focusing on identifying specific issues and needs in the school and using the resources of local specialists to train and inform staff.

5. MORE OPPORTUNITIES FOR SCHOOL/PARENT INTERACTION...Schools, in cooperation with parents and teachers, should develop master schedules that will encourage interaction between school staff and parents.

6. EQUALIZING STATE AID TO EDUCATION...State aid for education should be equalized and increased, thus allowing school districts to make more efforts to reduce class size and counseling case loads. Increased funding for Chapter 188 programs and passage of the Board of Education sponsored equalization bill, will go far toward helping cities and towns reconstruct badly damaged and neglected public education systems.

7. LOCAL EVALUATION AND EDUCATIONAL GOALS AND PRIORITIES... Each school committee should evaluate existing educational goals and priorities to take into consideration changing developmental needs of students, cultural, social, economic and the organizational realities of their families and communities.

CHAPTER III

THE LAW AND THE COURTS

For several years now, judges, educators, lawyers, parents, probation officers, and human service and law enforcement professionals at every level have reported some frustration with the way the CHINS law is working out. They have expressed a growing concern that the provisions of the current law and the way it is being interpreted and administered may not address sufficiently the increasing need for more effective methods of resolving conflicts between children and their parents or the schools.

M.G.L. Chapter 119, Sections 39 E-J, the state statute which governs the receiving, hearing, and disposition of applications seeking a legal determination that a child is in need of services, has been administered by the juvenile and district court departments in conjunction with the social service system, schools, and law enforcement agencies for almost fifteen years. Since 1974, when the Massachusetts legislature enacted Chapter 1073 of the General Laws, children who are found to be truant, to have run away from home, or to have disobeyed the reasonable orders of their parents or guardians are no longer adjudicated delinquent, but rather are found to be in need of services..

This law, with support and direction from the Federal Juvenile Justice and Delinquency Prevention Act of 1974, effectively closed the Commonwealth's county training schools and specified that children determined to be in need of services were not to be considered delinquent and could not be committed to any institution designated or operated for juveniles convicted of crimes.

Therefore, at the present time,should a parent, police officer, or, in the case of truancy, a school attendance officer file an application for a petition seeking a determination that a child is in need of services, the court responds by setting in motion a series of steps, beginning with setting a date for a hearing to determine whether or not a petition should be issued and followed by an immediate request for the involvement of probation officials who typically follow through on the case until its resolution.

In effect the CHINS law creates provisions for noncriminal proceedings to be held in one of the four Juvenile Courts or in juvenile sessions in the District Court system for the specific purpose of

determining whether a child is "in need of services". However, from the very point of application, each case takes on a character of its own, and dispositions vary greatly depending on the nature of the problems presented, the resources available, and the ability and willingness of parents, children and agencies to participate in the process of resolving their problems.

Historically, society has permitted the practice of holding children and youth to a standard of behavior beyond that which is required of adults. The rationale for this has varied over the years, ranging from early colonial concern with the child's key role as a source of labor for the family economic unit to more general concern for the protection of juveniles from physical harm due to lack of supervision [Fink, 1986]; and, while a detailed analysis of similar legislation nationwide is beyond the scope of this report, it is fully evident from the Commission's research that most if not all American juvenile court law has some say in certain cases involving non-criminal conflict between children and their parents or the school. The labels -- Person / Child / Minor / Juvenile / Family in need of Services / Supervision (commonly abbreviated PINS, CHINS, MINS, JINS, or FINS)--vary from state to state, but the jurisdictional thrust is essentially the same, allowing judicial intervention in certain cases of juvenile behavior that would not warrant state intervention if committed by an adult.

Therefore, while these children are not considered delinquent in the legal sense, they continue, when a school official, parent, or law enforcement official requests, to be under the jurisdiction of the courts. Indeed, over the past seven years in Massachusetts, the number of CHINS applications has steadily increased, and, in 1987 they constituted fourteen percent of all juvenile cases handled by the courts across the Commonwealth.

Over the past two years, the Commission has examined numerous issues surrounding the intent and letter of the CHINS law, the judicial and administrative procedures practised, and areas where the Commonwealth might consider reforming existing law, policy, or practice. What follows in this chapter is an outline of the major legal and law enforcement related issues debated by the Commission, an explanation of various options for reform, and a listing of the findings and recommendations pertaining specifically to the courts and related legal, procedural, and administrative systems.

ISSUES AND OPTIONS

During the course of its discussion about the CHINS law and the role of the courts, the Commission identified two overriding concerns:

1. The law does not recognize sufficiently the dynamics of families in conflict and fails to encourage the full participation and cooperation of children, parents or guardians, social services, and schools in resolving their conflicts. At present, the law lends credence to the misperception that children and youth who run away from home, do not attend school, or who persistently misbehave in school or at home are acting alone and without reason and require state intervention; and

2. The existence of the law does not ensure sufficiently that families will have full and timely access to appropriate services and assistance in resolving any problems which might be contributing to family or school-based conflict.

Children who run away from home, stay away from school, or defy or ignore their parents, guardians, or school officials are, at the least, at odds with conventional wisdom about how a minor child should behave, at most in conflict with family or school authority, and inevitably enmeshed in a complex web of home, school, and community-based problems over which they have little control.

The Commission is concerned that the law, in its present form, does not fully take into account the complexity of a family in conflict and, as a result, subtly incriminates the child's behavior alone, thus encouraging the practice of attempting to resolve family or school conflicts by attempting to blame the child and change his or her behavior alone, by working on the child in isolation from his or her family, community or school.

Modern social research suggests that the range of family-centered problems is immense and that children, especially adolescents, frequently serve as lightening rods for family conflict. A child's confrontational or antisocial behavior, as pointed out in the Commission's chapter on Profiles of CHINS Youth, is likely to indicate breakdowns in at least one if not many of the systems of support for the child.

Traditionally, the supervision of minors is under the exclusive purview of parents or schools with little interference from the courts unless a child has committed a crime or his or her safety and or security is threatened. School attendance laws do additionally require that parents and schools cause children between the ages of six and sixteen to attend school, and charge school attendance officers with the responsibility for monitoring compliance with the law.

What happens then when, for some reason, a minor child persistently leaves his or her home without parental permission, doesn't attend school, or is alleged to have defied or ignored reasonable parental or school authority to such an extent that the family or school feels that it

cannot do its job of supervising the child? As one answer to that question, the Massachusetts CHINS law extends to parents and schools the right to request court intervention which, it is hoped, will make the child behave and lead to the resolution of conflicts between children and their family or schools.

And yet, there is disagreement about what constitutes the proper role of the state in cases of family or school conflict. The level of difficulty encountered by the Commission in dealing with this very issue is aptly illustrated by the fact that even the American Bar Association has not yet been able to reach consensus on whether or not cases of truancy, running away, and stubbornness should be retained within the jurisdiction of the court.

In fact, even within the Commonwealth some have suggested the elimination of court involvement in CHINS altogether, citing objections to court involvement in what are considered by some to be private family matters, concern about the erosion of the in loco parentis responsibilities of the school, and the claim that even though the law is very specific about the proceedings being noncriminal in nature, the use of the courtroom setting and procedures tends to encourage everyone involved to believe, incorrectly, that the child is being charged with delinquency and that the court will determine and enforce a punishment.

However, it remains a concern of many that some children, although not adjudged delinquent, are persistently and dangerously beyond the control of their parents, guardians, or school officials; and there remains the question of what redress parents and schools can expect in upholding their responsibilities to care for, protect and educate their minor children. Likewise, in some quarters, it is feared that without the threat of court intervention, the very individuals and organizations charged with caring for, serving, protecting and educating minor children may neglect their duties and responsibilities to troubled children entirely. Without legal mandates to serve this difficult population, some fear that these children would end up being ignored, improperly jailed, or growing up virtually on their own with no adults to assist them in sorting out their lives.

Therefore, in an attempt to look at the Massachusetts CHINS law as a vehicle intended to promote early identification and intervention in cases where children and their parents or guardians clearly need supportive services in order to resolve conflicts within the family or at school, the Commission has focused on two compelling issues:

1. The feasibility of expanding the focus of the law to include not just the children but also their families and the agencies serving them; and

2. The type and degree of judicial involvement necessary in cases which involve children in conflict with family or school authority.

ACCESS TO SERVICES

Consensus among Commission members was reached early regarding their perception that CHINS youth are a diverse and particularly difficult group to help. The constellation of problems and conflicts they can encounter at home, in school, and in the community often leads them to act out in frustration and anger. Commonly they suffer bouts of depression and a debilitating loss of self esteem; and they, like most adolescents from time to time, can become completely isolated from adults at every level of their existence, making them difficult to reach and, frequently, impossible for parents or teachers to understand or control.

The families of CHINS youth are commonly embroiled in a cycle of conflict that adversely affects everyone involved. In the most difficult cases seen by the courts, the child and the family are long suffering and are seeking immediate relief to situations which have gotten increasingly worse over time. Fraught with multiple and often long-standing medical, economic, educational, and mental health problems, the family experiences a turning point or push from an outside agency (such as the school or the police) which causes the parent to seek court intervention. In such situations tensions are high, and conflict between parent and child is great. The family members frequently feel hopeless, helpless, and victimized. Life, for many, is increasingly difficult to negotiate. [Tobis, 1986]

In virtually all CHINS cases, it is impossible to separate the child's problems from those of the rest of the family constellation, and, as a result, the involvement of key family members in the resolution of the child's problems is considered essential. However, the Commission has observed that efforts to involve family members in resolving CHINS cases can be frustrating, time consuming, and difficult if not impossible to manage. There is great variability in the capacity of families for involvement either with each other or with outsiders; at times, their willingness or ability to participate in the process of resolving family problems is extremely limited by everything from conflicting work schedules to debilitating physical or mental conditions.

A commonly heard complaint about the CHINS process nowadays is that it has "no teeth", an expression which thinly disguises the frustration everyone experiences when expectations of success in resolving a case are not met--when, for example, a parent discovers that his or her child has run away (again) from a foster placement, when a school attendance officer can't seem to gain the cooperation of a parent in getting a child to school, when a social worker can't find a teenager who is scheduled for a counseling session, when a child is ready and willing to seek treatment and there is a fifteen week waiting list for a substance abuse program, when the student has another run-in with the school.

Making services to CHINS youth really work takes the full cooperation of a variety of parties, not the least of which are the child and his or her parent(s), other family members, social services, and the school. Regretably, with increasing frequency in cases where an important party to the matter persistently fails to participate or perform up to the standards of the court, judges are invoking Contempt of Court powers, and, when warranted, Care and Protection orders may issued.

However, most of the time, judges agree that to elicit the cooperation of CHINS youth, families, schools, and social services requires the important ability to persuade everyone concerned that involvement will benefit them in ways that they themselves understand and want. Fines and verbal reprimands appear to have little lasting effect on the willingness of people to seek and receive remedial services, and unless conditions at home or in the school are different when the child returns to the situation, it is likely that conflict will reoccur in spite of any punitive sanctions.

Therefore, while the involvement of family members in the resolution of CHINS cases is considered paramount, the prospect of inducing entire families (as well as their troubled children) to take advantage of services on a voluntary basis is difficult to expect unless four important conditions are met:

1. A statewide mandate to provide convenient, affordable, and non-litigious conflict resolution services to families;
2. The ready availability of well coordinated human and fiscal resources targeted specifically for services to children and families in conflict;
3. A fair and acceptable definition of what conditions constitute eligibility for services; and
4. Incentives for children and families to seek and accept help on their own.

The challenge to the Commission, the Commonwealth, and to the public at large is, therefore, to figure out how to provide new or better coordinated resources necessary to promote local access to affordable and high quality prevention and intervention services, come up with fair and acceptable definitions of eligibility and standards of service, and promote a climate of support for families where the state and local communities make it a priority to address the needs of children and families in conflict before they develop serious problems.

JUDICIAL INVOLVEMENT

Ideally, families voluntarily seek and receive assistance from trusted friends or qualified professionals when experiencing unrelenting conflict, especially when the conflict involves a child persistently running away from home or not attending school. When informal resolution is impossible, in the best of all possible worlds, social service agencies, religious and charitable organizations, schools, hospitals, law enforcement agencies, and representatives from both the public and private sectors rally, both statewide and on the local level, to provide coordinated and comprehensive support services, a continuum of care to families and children in need, making court involvement necessary only when abuse, neglect, or delinquency is indicated.

It is generally agreed that non-litigious solutions to family and school problems are the most successful. As research available nationwide indicates, children experiencing conflict and suffering the effects of long-standing unresolved problems at home and in school tend to resist punitive solutions and respond most favorably to programs of concentrated attention to their real needs in the home, community and school.

However, as attractive as the prospect of eliminating the need for court involvement in CHINS cases altogether may be, the Commission acknowledges that several important problems emerge when considering this option--especially in view of concern about the care and protection of endangered children and complaints about CHINS youth who may have committed undetected acts of delinquency or who may be trapped in a revolving door of ineffective placements and services.

For example, in an effort to enforce compliance with CHINS orders in 1986, a dozen different judges statewide elected to invoke their Contempt of Court powers twenty-seven different times in

cases involving twenty-three different children brought before them. As a result, the youths in question were ordered committed to or detained by the Department of Youth Services pending further court action, an action which produced criticism from DYS Commissioner Edward Loughran who objected to the inappropriate assignment of CHINS youth to programs designed for delinquent children.

Although not a new phenomenon, the dramatic growth in the number of such cases (a total of only four such actions took place in 1984 and 1985) provides a telling index of the judiciary's increasing level of concern over its inability to ensure the appropriate treatment of CHINS youth. As it stands now, even with court supervision, some CHINS youth never reach reconciliation with parents, guardians, or school and end up in a revolving door of court hearings, failed placements and treatment programs, and sporadic school attendance. For these children, the only "cure" for CHINS status is likely to be the attainment of age sixteen when they are no longer required by law to go to school or age eighteen when they reach the age of majority and are no longer subject to CHINS.

Another concern about judicial involvement is raised by the fact that many professionals believe that a significant portion of runaways may, in fact, be victims of long-standing unreported abuse and neglect. And further complications arise when evidence of such is brought up during the assessment of a CHINS case and a separate Care and Protection proceeding is initiated--already existing conflict between and among family members may be aggravated further to the point where it is virtually impossible to obtain their voluntary cooperation. It is especially difficult in cases where the parents have requested services through CHINS only to find themselves implicated in allegations of abuse and neglect.

Lengthy debate in Commission meetings which centered primarily around how best to increase and improve access to services for both families and children in need, raised these and numerous other issues pertaining to the pro's and con's of court involvement in family and school-based problems. Proposals ranged from those which would completely eliminate court involvement to those calling for increased court involvement and sanctions against parents, schools, social service agencies and children in noncompliance with service plans. Questions were raised about the feasibility of simply expecting services to be sought on a voluntary basis versus court ordered treatments or programs.

After considering all the options, the Commission concluded that the most promising direction for reform would be toward promoting convenient and affordable access to services for families as well as for their children, and requiring that state agencies, schools, and families themselves take certain steps to help children in need prior to any court intervention. The Commission held fast, however, on the necessity for some form of court involvement in cases of children at risk of serious endangerment and in adjudicating disputes between service providers and families.

It should be noted, however, that while much progress was made toward reaching concensus among members of the Commission on the appropriate focus of reform, Judge Lawrence Shubow maintained his position that repealing and replacing existing CHINS law would be "cumbersome and complicated", and, in dissenting from the portion of the Commission's final report which recommends legislative reform, he suggests that "While the existing statute would benefit from the adoption of regulations or standards to promote uniformity and accountability in it implementation, in its simplicity and flexibility it is fully able to encompass the positive recommendations of the Commission."

In fact, at a minimum, the Commission agrees that standard judicial guidelines should be adopted statewide in an effort to clear up discrepancies which exist between CHINS procedures and policies employed by courts in the District Court Department and those followed in the Juvenile Court Department. However, a majority of the members ended up concluding that actual reform of the statute, while time consuming, is essential in order to make sure that schools, social services, and parents take the steps necessary to prevent problems from arising in the first place and that courts intervene appropriately in the most difficult cases.

This proposed reform would amend the current law to extend participation in services to families as well as to children, and would set in motion a process by which families who are experiencing serious conflict would be referred directly to diagnostic evaluation services for the development of a service plan. The Commission's proposal would make parents and children seeking relief from conflict eligible to apply to the Department of Social Services for access to diagnostic evaluation, a service plan, and appropriate follow-up services in a manner now available on a limited basis through voluntary application to the Department. In fact, in an effort to divert most cases away from the courts, all parties would be required to demonstrate a good faith effort to comply with the DSS coordinated service plan prior to petitioning the court for a hearing on the matter.

Commission recommends that the court should require certain prior steps to be taken by agencies and individuals in preparation for court involvement should it be necessary--such steps as making sure that mediation has been attempted, that health and medical matters have been evaluated, that special educational needs have been examined, etc. This would ensure that standard procedures statewide are followed in assessing the need for services, or, in the case of an appeal to the court, for the need for court intervention.

Under this reform, the necessity for the court to force a family to cooperate with a service plan or to control the behavior of an acting-out minor would be reduced in anticipation that a less litigious method of resolving the conflict in most cases will produce more desirable results. The Commission suggests that the court reserve its authority primarily for interventions in particularly difficult cases such as those of runaways who have been missing for a period in excess of twenty-four hours or in cases where there are disagreements between or among agencies regarding the terms of a service plan. It further recommends that under no circumstances should CHINS youth be incarcerated in Department of Youth Services Programs.

It should be noted that Judge Francis Poitrast, Chief Justice of the Juvenile Court Department, while commending the Commission "for their foresight in recognizing the necessity for judicial involvement in CHINS matters and recommending its retention", expresses grave concern with "the limitations imposed on the petitioner before he may seek redress by a court" that are outlined in the Commission's legislative proposal. He concludes that "access to the court by parents, school departments, and the police in CHINS matters has been and is presently a statutory right with this Commonwealth. If this Commission's [legislative] recommendations are enacted by the Legislature, this general right of access to services from the various Juvenile Courts or District Court juvenile sessions without pre-condition compliance, would be virtually eliminated."

Other Commission members, however, are optimistic that requiring pre-conditions will conserve the court's time and energy for the most difficult cases, slow the recent rate of increase in CHINS cases brought immediately to court prior to any demonstrable effort on the part of parents or schools to resolve conflicts voluntarily, and encourage social service and school reform in the Commonwealth to the benefit of troubled children and their families.

"I cannot stress enough that the problems with the CHINS law do not lie in the avenue to court access, but more importantly in this Commonwealth's dire lack of appropriate and sufficient services to address the wide variety of problems facing today's troubled children--educationally, physically, emotionally and socially. Those areas are where the effort, time and financial resources should be expended to improve the Commonwealth's ability to adequately address the growing problems of CHINS children."

[Chief Justice Francis G. Poitrast, Juvenile Court Department, 1989]

THE ROLE OF PROBATION OFFICIALS IN CHINS CASES

According to the final report of the "Assessment of the Massachusetts Probation System" prepared in 1987 for the Chief Administrative Justice of the Trial Court by The Spangenberg Group, the number of new CHINS cases handled by probation in Massachusetts remained relatively constant from 1984 to 1986 when there were 5,519 new CHINS cases logged by the system.

Of the 1084 probation officers employed by the Commonwealth across the state (reported on August 18, 1987), 124 were designated specifically to work with juvenile cases (of all types), either in one of the five Juvenile Probation Districts of the District Court Department or in one of the four probation departments attached to the courts of the Juvenile Court Department. In probation departments which have no officials designated specifically to work with juveniles, regular probation officers handle the cases when they come up.

According to the Massachusetts Probation Assessment Report, "probation in Massachusetts is primarily a correctional sanction involving the supervision of offenders in the community as an alternative to incarceration"(p. 15). However, in civil cases such as CHINS, "probation is noncriminal in nature and provides services to families in a variety of often traumatic domestic relations matters"(pp. 15-16). As stated in the report,

> In CHINS and C & P petitions, juvenile probation officers provide services which are more analogous to those provided by family ser-vice officers in the probate and family court. In these cases, according to the Office of the Commissioner of Probation, "probation officers provide broad investigative services to the court. In addition, they evaluate the personal, family and social problems of the client, develop an action plan, and coordinate those community resource agencies best equipped to provide the required expertise. Since the families of juveniles are often

> involved in the probation program, juvenile cases make heavy demands upon the role of the probation officer as a resource broker." (pp.25-26)

The CHINS statute currently specifically designates that applications for services be assessed by the probation department attached to the Juvenile Court or District Court assigned to hear a case. In examining the important role of the probation department in handling such cases, the Commission has identified a couple of issues which have an impact on that role:

> (1) Surveys conducted in conjunction with the Probation Assessment Report reveal that a portion of probation officials responding felt that "revised standards are needed for...the handling of CHINS cases." (p. 66) The CHINS Commission has confirmed this need and, indeed, has ascertained that, where they exist, standards and procedures for handling CHINS cases vary from court to court and, in some cases, from judge to judge within the same jurisdiction, leaving much room for confusion on the part of probation officers as well as for families, service providers, and the youth themselves.
>
> (2) Even in courts which have probation officers specifically designated to work with juveniles, the ability of probation departments to meet the specialize needs of CHINS youth and their families is likely to be limited by (a) a lack of up-to-date training on adolescent and family issues, (b) a lack of communication and cooperation between and among the courts, area social services, the schools and local law enforcement, (c) a lack of leadership, staff and program resources to make resolving CHINS cases a priority in any one jurisdiction, or (d) a combination of all three factors.

Reflecting the "confusion and disagreement among individuals, both within and outside the probation service, regarding the mission of probation" noted in the Probation Assessment Report p.116), some question has been raised with regard to the appropriateness of probation's involvement in CHINS cases at all. One argument holds that involvement with probation is seen primarily as a "corrective" measure employed as an alternative to incarceration for delinquents or adult criminals, and, as CHINS cases are noncriminal in nature, they therefore should be diverted away from probation involvement altogether.

However, while the Commission sees much virtue in decriminalizing CHINS proceedings and diverting the bulk of these cases away from court involvement and toward voluntary resolution of family and school-based problems, it feels that qualified probation officials can play a significant role in the process--especlally in facilitating the resolution of the most difficult cases where a service plan has been developed, services have been offered or provided, and the situation remains unresolved.

Reform of the statute itself, expanding the availability of services to adolescents in conflict with family and school and requiring that certain steps be taken by the parties in each case even before the court gets involved, will go far toward clarifying the role of probation officials. Because they are expected to deal with an incredibly complex array of family issues, probation officers should retain the professional discretion and flexibility necessary to meet the variety of needs presented in each case. However, whether probation officers are involved from the beginning of the case or are brought in as a last resort, they are charged with the responsibility of administering the law and enforcing court orders, and, as such, should be provided with clear guidelines for the handling of CHINS cases.

In addition to reforming the statute, this Commission joins with the Commission on the Unmet Legal Needs of Children in recommending the subsequent cooperative development and use of statewide judicial standards for CHINS cases in both the Juvenile Court Department and in the District Court Department. While judicial discretion is an important principle of our system of justice, it is particularly prevalent in juvenile cases, and the Commission is concerned about reports which indicate that there are procedural differences from court to court, judge to judge. The development of judicial guidelines for CHINS similar to those for Care and Protection cases recently issued by the Chief Justice of the Massachusetts District Court Department may be significantly hampered by the absence of case law documenting dispositions in CHINS proceedings, but the need for procedural standards remains paramount nonetheless.

THE ROLE OF ATTORNEYS, GUARDIANS AD LITEM, AND ADVOCATES

> When a child alleged to be in need of services is brought before a juvenile court or a juvenile session of a district court pursuant to section thirty-nine F, said child shall be informed that he has a right to counsel at all hearings, and if said child is not able to retain counsel, the court shall appoint counsel for said child. The court may in its discretion assess against the parent or guardian the cost, or any part thereof, of counsel appointed to represent a child alleged to be in need of services. [M.G.L. c.119, s.39F.]

According to the law, a child is guaranteed legal representation at all hearings on the subject of his or her need for services. In some cases, parents, the school, and the Department of Social Services are represented by counsel as well. It is conceivable that as many as six or eight different parties may be summoned to appear at a hearing, each with counsel.

While the requirements of the section of the law noted above may appear straightforward, a number of questions and controversies related to its interpretation and the roles of attorneys in

CHINS cases have arisen over the past fifteen years of practice. One primary difference of opinion has arisen between (l) those who see the role of a child's attorney as that of a person charged with representing the "best interests of the child" and (2) those who believe that the attorney's role in CHINS cases should be viewed as it would be in any other civil case--as legal advocate of his or her client's sincere wishes and desires in the matter before the court.

These two legal conceptions are based in differing theories about children's capacity and competence to understand their situation, know what they want, and speak for themselves [Minow]. One conception is based on the theory that minors, by virtue of their age, are not competent to have a relationship with an attorney sufficient to participate in the process of making decisions about the conduct of his or her own case. The other is based on the notion that they are, and, furthermore, should be guaranteed the right to have their lawyer present their actual wishes before the court so that the court itself, not the lawyer, decides what is in the child's best interest.

Therefore, from court to court, case to case, attorneys representing children in CHINS cases regularly face an ethical dilemma when they sincerely question the wisdom of the child's expressed wishes or when a court requests that the attorney state his or her opinion as to whether or not the child's expressed wish is in his or her best interest.

One solution to this dilemma has gained increasing credence among Commission members--the appointment of a Guardian Ad Litem for the minor and express instructions from the court in each case that the G.A.L. alone, not the minor child's attorney, be responsible for advising the court as to whether or not a desired course of action may be in the best interest of the child. This would, in effect, free the attorney to exercise his or her responsibilities to the client in accordance with the standard ethical canons of the Supreme Judicial Court of the Commonwealth.

However, as noted in the 1987 report of the Massachusetts Commission on the Unmet Legal Needs of Children, there is some confusion generally about the role of the Guardian Ad Litem (G.A.L.) which needs to be cleared up before employing this strategy in CHINS cases across the board. The Unmet Legal Needs report frankly recommends that legislation should be introduced to clarify and define the functions of G.A.L.s in cases where children are involved. G.A.L.s should function as Next Friend of the Minor, Investigator, or Evaluator, but not as Attorneys/Advocates, as they have in the past. (p.25)

To further complicate the picture, the Massachusetts Office for Children, a state agency specifically empowered to advocate for children, at present has approximately forty-three lay advocates

statewide in its "Help for Children" program whose job it is to advocate for children in all civil contexts (p. 23). While their primary effort currently is in the area of advocating for special education services for children, in the case of CHINS, their role needs definition, especially in relation to all of the other legal and quasi-legal roles being played by attorneys, judges, probation officials and others.

Other problems have emerged around the question of what constitutes a CHINS "hearing". At what point in the process should the "right to counsel" take effect--as soon as the application is submitted? when the application is sent to Probation for review? or only when the case is being heard in a courtroom? Access to legal advice and representation is a key factor in the protection of civil rights, and in CHINS cases where custody of a minor may be at stake, the earlier the advice and counsel is obtained, the better. On the other hand, the introduction of a framework for litigation in the early stages of a CHINS case may subtly discourage the use of mediation or other methods of informally resolving the problem.

Aside from facing problems stemming from confusion about procedures and roles, attorneys involved with CHINS cases also may lack the training and experience needed to handle the complexities of families in crisis. At a minimum, CHINS proceedings require traditional litigation skills in the proof of relevant facts and, after the factual determination that a child is in need of services is made, the ability to participate in a multidisciplinary determination regarding the service plan. Such ability is largely contingent on how much knowledge and experience the attorney has in family law and child development and his or her familiarity with social and educational services available to serve the needs of the client.

Many of these same and other similar issues related to the roles and responsibilities of attorneys, Guardians Ad Litem, and advocates also have been raised in the recently released report of the Massachusetts Commission on the Unmet Legal Needs of Children sponsored by the Governor and the Massachusetts Bar Association. In fact, in recognition of the importance of attending to the legal needs of CHINS youth, this legislative Commission endorses several of the twenty-two recommendations contained in the Governor's report, specifically:

- **Recommendation #6** which states that "Legislation should be introduced creating a Children's Services Division with the Committee for Public Counsel Services, as an experimental pilot project in two courts, to provide children's advocacy and representation through appropriately trained and qualified attorneys

and support staff. The Children's Services Division shall supplement, but not replace, representation currently being provided by the private bar."

- **Recommendation #7** which states that "By legislative or administrative order judges, court personnel, attorneys, and Guardians Ad Litem handling cases involving children should attend continuing education programs on developmental, psychological and evidentiary issues pertaining to children. For judges and court personnel, such programs should be regarded as part of their regularly assigned duties."

- **Recommendation # 9** which states that "in the initial stages of proceedings involving CHINS, care and protection or delinquency the court should consider, on the record, whether the child should be referred to the local educational agency for a Chapter 766 Team evaluation, if the facts indicate possible impairment of the child's ability to progress effectively in a regular education program. Parents or legal guardians--or children themselves, if over 14--should be parties to such consideration. In addition, the Office for Children should receive funds to support research and advocacy related to children's special education and other needs."

- **Recommendation #22** which states that "Increased funding should be made available to encourage expanded use of mediation by the courts--particularly in CHINS cases--as an informal alternative for families willing to try mediation before resorting to litigation."

THE ROLE OF LOCAL LAW ENFORCEMENT OFFICIALS

In September, 1987, the Commonwealth's central register of missing children contained the names of over 1300 minors between the ages of thirteen and eighteen who were reported missing over the previous nine months. The Missing Persons Task Force of the Governor's Anti-Crime Council estimates that of all the children reported missing each year, ninety to ninety-five percent are likely to fall into the category of either "parental kidnapping" or "runaway". The State Police Missing Persons Unit estimates that only four to five percent are the victims of parental abduction and less that one percent are abducted by strangers, figures which indicate that the bulk of the "missing children" statistics each year is comprised of children who have run away from their caretakers.

Therefore, at a minimum, it is possible to estimate that over 1200 missing children each year are reported as having run away from home, and many law enforcement professionals believe that the number is significantly under reported each year because of the number of minors they encounter who have not been reported missing but who are, nonetheless, homeless or living without adult supervision.

The local police department is frequently the first agency to be notified that a child is missing. Sometimes parents or guardians are totally unaware of a child's whereabouts. Increasingly, however, police report that parents are likely to know exactly where the child is and want police assistance in returning him or her to the home.

According to Massachusetts law (M.G.L. Chapter 119, section 39H), a youth may be arrested if the arresting officer has probable cause to believe that the minor has run away from the home of his or her parents or guardian and will not respond to a summons, or if he or she has failed to obey a summons to appear in court for a CHINS hearing.

However, the full role and responsibility of the local police department in dealing with runaways is likely to involve far more than simple arrest, and its ability to respond effectively is determined largely by a complicated web of experience dealing with children, community morays, the availability of social services and a myriad of interpretations of the law. According to the Missing Persons Work Group

> "Of all the issues related to missing persons considered by the [group] the runaway problem posed the most perplexing and challenging. An intensive exploration of this issue has raised more questions than it has answered due to the lack of resources and unclear missions in this area by various agencies, the law enforcement community and the courts." (p.ll)

In response to this report, the Governor's Anti-Crime Council established a "Runaway Working Group" which was charged with "examining the procedures, services and resources for dealing with runaways", and it decided that, rather than digest the entire topic, it would focus primarily on the first people to be called in to handle runaways and families in conflict--the local police department.

In many communities across the Commonwealth, with the exception of the fire department the police station is the only emergency service available; and the ability of the police to respond effectively to runaways and their families depends largely on the knowledge and expertise of individual police officers assigned to handle juvenile cases, the availability (or lack thereof) of local services for children and their families, and the amount of cooperation which exists between the police and social services.

In general, however, the police station is not an environment conducive to counseling, family reunification, or placement of an emotionally distraught child. Police are not trained to recognize or assess the signs of various types of physical or emotional trauma in children, and do not have the time, expertise or resources necessary to resolve conflict which frequently characterizes the life of a family and child in crisis.

And yet, when a police officer picks up a child who has allegedly run away from home, he or she is faced both with an upset child and with a number of distressing procedural dilemmas to solve. For example, while state law permits police under certain circumstances to arrest minors for running away from home, for the past decade and a half, federal law has prohibited the practice of detaining CHINS youth for any length of time in a jail or police lockup in order to prevent casual interaction between CHINS youth and delinquent youth or adult criminals.

Many departments are still struggling to meet the requirements of the Jail Suicide Prevention Act, and not all lockups have been renovated sufficiently to ensure safe conditions for any person, let alone a child. And yet, at three o'clock in the morning, if it is impossible for the child to return home and there is no shelter or temporary foster care available in the community, police are faced with either keeping the youth in a lockup or releasing him in his or her own recognizance until the first available session of juvenile court.

In the absence of alternatives, police are letting runaways go or breaking the law by detaining them in lockups and jails. In fact, according to a report made before the Governor's Anti-Crime Council in February, 1988, approximately two thousand such youth were held last year for anywhere from one-half hour to three days in police lockups all over the Commonwealth of Massachusetts in violation of federal law.

What does the Commission recommend to rectify this situation? It is clear from the initial reports of the Anti-Crime Council's working group on runaways that, at a minimum, it is necessary to provide support for local and regional efforts to (1) provide alternatives to locking up CHINS youth, (2) train local police departments in ways to handle cases of children and families in crisis, and (3) create strong supportive relationships between local police, shelter care providers, and social services.

"Local police are going to have to change their thinking about the role social service agencies play in the police experience. Social service agencies ale going to have to change the way they think about the police and appreciate them for the valuable resource they are. Police departments, human service agencies, and shelter care providers are going to have to come together and rid themselves of the 'siege mentality' that has been a hindrance to effective communication and humane treatment of the Commonwealth's children for many years."

[Inspector James F. Allen, Arlington P.D.]

FINDINGS AND RECOMMENDATIONS

The Commission has concluded that the existing CHINS law should be revised to reduce the incidents of children going to court by requiring schools, social service agencies,and parents in conflict with their children to take steps to resolve the conflicts among themselves; and, further to reserve the authority of the court for cases where there are significant disagreements regarding service plans or when a child is considered to be in danger by virtue of having run away from a supervised home environment.

A. EFFORTS TO DECRIMINALIZE STATUS OFFENSES SHOULD CONTINUE.

The Commission has observed that...

- Contrary to popular mythology, the majority of status offenders do not end up committing felonies as adults.
- A majority of status offenders are children and youth who have experienced prolonged conflict with their families, schools, peers, or authority figures which has severely damaged their self esteem and ability to cope.
- Punishment alone has proved to be only temporarily successful in curtailing misbehavior.

Recommendation

The Commonwealth should discontinue the practice of labeling children in need of services as "status offenders". Rather than identifying them as "pre-delinquent", "truants", "runaways", or "stubborn", terms which unfairly evoke a subtle implication of guilt, criminality, and punishment, the courts, schools, and associated service providers should focus attention on the unmet needs of the child or youth and his or her family constellation and providing full access to services.

B. FOCUS ON FAMILIES IN NEED OF SERVICES

The Commission has observed that...

o All studies encountered suggest that the range of family centered problems experienced by CHINS youth is extensive;

o Strong evidence exists to support the idea that voluntary family-based interventions are most likely to produce the most satisfactory and long lasting results for children, youth, their parents and families;

o The existing statute does not ensure that children and families will receive appropriate services; AND

o The existing statute does not acknowledge that the responsibility for resolution of a child's problem inevitably must involve the participation of the family, school, and the community.

Recommendation

The Commonwealth should provide access to services for families as well as for children, and require the use of these services prior to the filing of an application for court intervention. Specifically, the Commonwealth should:

o Enact provisions which encourage access to services for families as well as for children and youth (see Appendix--AN ACT RELATIVE TO FAMILIES AND CHILDREN IN NEED OF SERVICES);

o Support the establishment of community-based family mediation programs to assist families and youth in resolving conflicts and seeking appropriate services;

o Require the development and implementation of a statewide social service needs assessment and guidelines governing procedures for the collection of reasonable fees for services;

o Encourage the development of judicial guidelines to govern procedures and standards employed in court supervised interventions;

o Encourage and support the development and replication of court diversion programs for CHINS youth and their families.

C. TAKE STEPS TO IMPROVE SCHOOL SERVICES AND INCREASE ATTENDANCE

The Commission has observed that...

o School attendance through completion of grade twelve is desirable, and attendance up to age sixteen is mandatory;

o A safe, orderly, and supportive school environment is necessary for the conduct of learning and instruction; and

o School committees, in cooperation with teachers, administrators, parents, and students themselves are the best equipped to formulate and carry out policy related to matters of school conduct, curricula, human services, and administration.

Recommendation

The Commonwealth support and require that schools take certain steps to improve school attendance and school climate in order to resolve attendance problems prior to petitioning the court. Such steps might include:

o Regularly recording and analyzing absence, tardiness, suspension and dropout data;

o Developing fair, clear and published rules of student conduct;

o Developing alternative programs for students at risk of academic failure or resisting learning or supervision;

o Increasing the availability of psychological services and other counseling programs to students and parents and the teachers and administrators who work with families and youth.

***

D. MAKE SERVICES TO TROUBLED YOUTH AND FAMILIES A PRIORITY

The Commission has observed that...

o Children and youth experiencing conflict with their families and schools are particularly vulnerable to depression, loss of self esteem, and estrangement from positive adult guidance.

o Everyone involved with helping CHINS youth acknowledges f frustration in not being able to provide immediate and sustained assistance needed by the youth and their families.

o With the rise of reported incidents of child abuse and neglect, the needs of CHINS youth have been overshadowed by the attention being given Care and Protection proceedings .

Recommendation

The Executive Office of Human Services, in cooperation with the Department of Education, the courts, School Committees, and human service advocates develop and implement a comprehensive plan for promoting the provision of specialized, coordinated, community-based services for troubled children and youth and their families.

* * *

E. PROVIDE PARENT AND FAMILY SUPPORT SYSTEMS

The Commission has observed that...

o Parents and guardians are sometimes faced with seemingly insurmountable problems dealing with their children (especially older adolescents who are acting out) and equally frustrating government, court-based, and bureaucratic systems as well as problems of their own.

o CHINS youth identify family and school problems as the most difficult for them to cope with and resolve.

o Many family and school conflicts can be resolved through mediation or arbitration thus eliminating the necessity of court intervention.

o Family preservation and family advocacy programs as well as school and community-based mediation programs have demonstrated success in quickly and effectively intervening to promote the resolution or family an~ school problems for children and youth.

Recommendation

The Commonwealth should promote and support the replication of model community-based parenting education programs and support systems including family mediation programs and family advocacy services.

CHAPTER IV

SERVICES FOR ADOLESCENTS AND FAMILIES IN NEED

CHINS youth and their families experience a wide variety of problems with varying degrees of intensity; and their willingness to seek or accept help is largely dependent on how necessary they feel it is to get help, how easy it is for them to get information and access to services, how much they trust service providers, and, ultimately, how able and willing they are to make decisions about their own lives.

Although typically no one CHINS family or adolescent is likely to require every possible type of service, most are likely to need periodic assistance of at least one type. The most difficult to serve individuals and families commonly require access to several different types of service simultaneously over a long period of time--in fact, the likelihood that multiple services will be required increases exponentially when a situation is aggravated by abuse, neglect, violence or substance abuse.

Troubled families and adolescents inhabit every city and town in the Commonwealth-- all communities need to make the issues and problems of teenagers and their parents a priority and formulate plans which address issues ranging from ways to prevent problems from occurring in the first place to arranging for long term assistance either in the home or in an out-of-home setting.

It is not necessary, however, for every community to have every type of service imaginable readily available. Neither is it prudent to expect the Commonwealth to set up wholly new services designed solely to meet the needs of these kids. However, in light of the prevailing wisdom which says that CHINS youth are the most likely of all state involved kids to "fall through the cracks of the system", the Commission feels that the state and local communities need to do a better job of identifying and helping teenagers in conflict with their parents or school authorities and coordinating a community-based or regional response network which utilizes existing services to the maximum benefit of troubled teenagers and their parents.

CASE MANAGEMENT SERVICES

Children and families with serious problems frequently require the use of more than one type of service. It is likely that each different type will be provided by a different agency, and the maze of agencies and services can be confusing even to the most experienced professional--to a family in trouble it can be totally confounding.

Case management is a key strategy in achieving the goal of providing easy access to a balanced and comprehensive community-based system of service to children and families in need. In North Carolina, for example, case management has been described as "the glue that keeps the parts of the [children's mental health] system together" and "perhaps the most essential unifying factor in service delivery." In Ventura County, California, they have made case management services the "centerpiece of the entire [demonstration system-building] project." ["Update", Florida Mental Health Institute, Winter, 1986-87]

Despite the different labels, and slightly varying focuses, the description of case management services offered by the Ventura County project (1986) is generally representative of the state of the art:

1. **Assessment:** A face-to-face evaluation of the child/youth and significant others; evaluation of all pertinent records.

2. **Planning:** The development of a treatment/service plan in collaboration with the appropriate involved agencies.

3. **Linkage:** The connection of the client to the appropriate services determined in the treatment/service plan.

4. **Monitoring:** Regular contact with the client to determine that services are being delivered and continue to be appropriate (the frequency of contact varies from program to program).

5. **Advocacy:** Speaking for and representing the needs of the client at both the agency and individual level to secure needed ser-vices and entitlements. [Ibid.]

COORDINATED SERVICE PLANNING

A service plan is "the written agreement developed by the client and the Department social worker that makes explicit the terms of service delivery...The assessment describes and evaluates the problems that a family presents; the service plan states the purpose of the service delivery, briefly identifies problems described in the assessment, and states the steps that will be taken to resolve the problems." [Massachusetts DSS]

A basic service plan ideally should identify specific measurable outcomes and steps to be taken to reconcile any problems which exist between the child and his or her parents or school. The roles and responsibilities of the case manager, the client(s), and all other parties related to the problem or its resolution should be clearly delineated and all pertinent parties should participate in the development, implementation, and periodic review of the plan. In formulating such plans for CHINS youth, the Commission suggests the following guidelines:

1. The involvement and participation of parents is essential--not only in planning, designing, and implementing strategies to help teenagers, but also in developing programs to help parents learn strategies for coping and communicating with their teenage children;

2. Difficult youth and families in trouble are best reached by trusted professionals and well trained peers who are "street workers", expected to work in the community on a daily basis to provide support, guidance, information, and advocacy for children and families in need;

3. When communication breaks down between children and their parents or the school, every kid in every community needs to know that there is at least one other adult or place nearby that is not a state office, court house, or police station where he or she can go for help with family, school, or community problems;

4. Community service personnel, police, educators, counselors, and all others who come in contact with teenagers should seek information and professional assistance from experts in the medical and social service community--especially when confronted with youth who may be suffering the effects of abuse, neglect, drug or alcohol dependency, or violence in the home, community, or school; and

5. A community or region-wide emergency response system--even if it's only a telephone answering machine which is checked frequently--should be put in place which affords parents and teenagers alike with around the clock access to information, emergency shelter, and counselors on call to help families and kids in crisis tap into a continuum of services.

A CONTINUUM OF SERVICES

Based on its own experience and the expertise of numerous professionals involved in the field of child and family services, juvenile justice, and child advocacy, the Commission has identified four basic types of service--(l) prevention, (2) early intervention, (3) emergency services, and (4) residential services and programs--which should be available at a reasonable cost statewide so that all children and families will be guaranteed timely access to information and confidential assistance in handling family or school related problems.

1. PREVENTION

(a) Health Related Programs

o **Comprehensive Health Education and Human Services** programs in the public schools which address issues of nutrition, reproductive health, prevention of smoking and substance abuse, sexuality, and the promotion of good physical and mental health habits;

o **Alcohol and Drug Education Programs** to prevent and respond to substance abuse problems through community education, media campaigns, information and referral services, school-based programs, and environmental change activities;

o **Family Planning Services** which provide medical care, counseling, education and outreach to help individuals and couples plan pregnancies and births; and

o **Health Insurance and Health Services** which provide reasonably priced and universally accessible comprehensive medical and dental care for teenagers and their families.

(b) Family Services

o **Day Care** which provides comprehensive, coordinated, and flexible child care services including direct care, protection, and supervision especially for the children of teenage parents who are attending school, training programs, or working during some part o~ the day; an~

o **Parent Services** which include parent education programs, home management assistance, baby-sitting, respite care, peer support, and consultation, as well as programs to provide comprehensive services to pregnant and parenting teens living at home or in need of transition to independent living.

(c) Education and Employment Services

o **Alternative Education Programs** which provide education and human services designed to enhance student retention and bridge the gap between non-attendance and reentry to regular school;

o **Employment and Training programs** which provide skill training, preparation for employment, and career planning support services; and

o **Adult Basic Education/GED Preparation Programs** which provide basic literacy skills and high school completion courses for adults.

(d) Conflict Resolution and Advocacy Services

o **Legal Services** which provide reasonably priced professional legal advice and advocacy on matters pertaining to housing, health and education services, contractual matters, employment, or any other civil or criminal issues which involve children or families;

o **Mediation Services** which provide a non-adversarial approach to resolving family, community, or school-based conflict through the use of professionally trained volunteers serving as neutral third parties who clarify issues, identify steps to resolve conflicts, and assist the parties in the preparation of a confidential, written agreement regarding the commitments made and the resolution of the conflict;

2. EARLY INTERVENTION

o **Outreach and Tracking Services** which identify and refer potential clients to appropriate counseling and support services within the community, especially if the individual or family's ability to make contact with appropriate services may hindered by racial, psychological, social, physical, cultural or geographic barriers or they require highly individualized care, counseling, or supervision;

o **Court Diversion Programs** which develop cooperative agreements between and among court and probation officials, community services, and schools for the purpose of diverting CHINS youth from further involvement with the court;

o **Protective Services and Treatment Programs** which provide protection and care for teenagers who have been the victims of abuse of neglect;

o **Recreational Services** such as camping, sports, and arts programs which promote healthy physical, cultural and social development and provide positive social bonding experiences and increase self confidence and self esteem through creativity, skill development, and leadership, and experience in group living;

o **Community Service Opportunities** which provide experience working with and helping out members of the community;

o **Counseling Services** which provide professionally developed support and treatment programs on an individual, group, or family basis for teenagers and families experiencing trouble;

o **Alcohol and Drug Abuse Intervention Programs** which provide short-term counseling for at-risk youth through school-based and court diversion services; and

o **Alcohol and Drug Abuse Out-Patient Programs** which provide supportive individual, group, and family counseling and aftercare services.

3. EMERGENCY SERVICES

o **Host Area Pre-screening Team Services** which provide comprehensive psychiatric emergency pre-screening for all people residing within the forty DMH cachement areas including 'round the clock access (either by phone or in person) to professionals who are specially trained to conduct hospitalization screening, medication evaluations, and short-term individual or family crisis intervention, or to provide information or referrals to hospitals, emergency shelter programs, day treatment or outpatient psychiatric services;

o **Hotlines** which provide a 24 hour per day system of immediate telephone response to teenagers and families in need of information and referral concerning such issues as abuse, alcoholism, depression and loneliness, suicide, and any other problem which puts children and families at risk of serious harm or immediate danger;

o **Emergency Shelter** which provides residential care on a limited basis for individuals or families during a period of crisis;

o **Specialized Shelters for Women and Children** which offer protection and services to women and children in crisis; and

o **Drug and Alcohol Detoxification Programs**

4. RESIDENTIAL SERVICES and PROGRAMS

o **Drug and Alcohol Treatment Programs** which provide opportunity for short term residential intensive interventions for individuals whose substance abuse has contributed to dysfunction in the family, school, or community;

o **Assessment Services** which provide short term, staff secure settings where individuals can be stabilized and assessment and planning can take place;

o **Substitute Care** which provides youth in need with specialized foster care in a professionally approved, supervised, and supported family or group setting 24 hours per day when parents or other principle caretakers are unable, unavailable, or unwilling to provide care on a daily basis;

o **Transition to Independent Living Programs** which provide substitute care and supportive services which prepare teenagers to achieve independence and self-sufficiency;

o **Inpatient Community Programs** which provide 24 hour inpatient psychiatric services for teenagers in a community hospital, and transition to community living or placement in a less restrictive community-based treatment setting;

o **Inpatient Diagnostic and Short Term Treatment Programs** which provide an immediate and comprehensive response to individuals in acute psychiatric crisis and stabilize them while appropriate placements are being investigated;

o **Intensive Residential Treatment Programs** which provide severely dysfunctional individuals in need of long term mental health treatment in a physically secure setting;

o **Permanency Services** which secure permanent homes for minors under new legal parentage through adoption or legal guardianship;

- **Psychiatric Hospitals** which provide planned temporary care in a hospital setting specially designed to serve teenagers in need of extensive psychiatric testing, evaluation, and services; and

- **Staff Secure Long Term Treatment Programs** which serve severely emotionally disturbed teenagers in need of long term treatment in a highly supervised setting in order to improve individual coping skills and social functioning.

SERVICE DELIVERY

The availability of a comprehensive continuum of services is only the first of several important ingredients in the recipe for success in reaching and serving children and families in need. Even when a continuum of services exists, without case management and professionally guided service planning, families are likely still to experience frustration and disappointment in their search for ways to reconcile differences or resolve longstanding problems.

And further complications can occur when problems emerge in the process of delivering the services--the Commission has identified a number of such areas where state and local officials, schools, and social service providers can significantly improve the delivery of services to CHINS youth and their families:

1. **Access to Services**--Where services may be available to adults, they may either be closed to youth or inappropriate for them. Or, by accident of birth, a teenager may live in an area of the Commonwealth where there are no community-based services thus necessitating placement in a residential setting when it may not be appropriate. As much as possible, services should be made easily accessible to people in crisis--working parents, students, and others who may not be able to avail themselves of services during regular business hours or whose circumstances prohibit them from complying with standard operating procedures (like language barriers).

2. **Community-Based Planning**--As much as possible, programs and services should be community-based with local officials assessing and determining the need for services and formulating the structure of programs.

3. **Professional Development**--Professionals working with CHINS youth and their families should be well-versed in developmental psychology, understand and be sensitive to the complexity of family dynamics when there is conflict between parent and child or school and child, and be trained to provide services with a "family" orientation stressing prevention, early intervention, crisis management, and follow up.

4. **Family Reunification**--While a "cooling off period" may be helpful and temporary physical respite from persistent conflict between teenagers and their family or school may necessary, service providers must make every effort to (a)

assist family members in maintaining family ties, and (b) make sure that youth continue to receive educational services through graduation.

5. Family Violence Prevention--Professionals working with CHINS youth and their families--school personnel, local police, court officials, social workers, and others--should have training to increase their awareness of the dynamics of domestic trauma and their capacity to intervene, manage family crises, and follow up on cases of family violence, especially those involving drug and alcohol abuse and battering or other types of physical violence.

6. State and Local Policies and Procedures--The policies, standards, training procedures, and professional practices of all state agencies, schools, and human service providers should specifically address adolescent and family issues, and whenever possible, should promote diversion to voluntary solutions to family or school-based conflict rather than proceeding litigiously. State contracted service providers should be held to uniform standards of performance pertaining to families and adolescents.

7. Advocacy for Families and Teenagers--The Commonwealth should develop and support constituencies for kids and families through a statewide public service campaign in the media ("Kids for Kids--The Youth Network") and, wherever appropriate, make available peer support, instruction, and advocacy to parents and youth in need.

CHINS youth and their families are best served by professionals and peers who are trained as "street workers" and who work in the community on a daily basis to provide support guidance, information, and advocacy for children and families in conflict. Each community must encourage the participation of parents in parent effectiveness programs, support groups, and respite care programs. Teenagers should be provided with similar opportunities geared to their particular interests and concerns.

The Commission has determined that the following types of services are important components of a community-based service network for CHINS youth and their families:

o **Family Mediation Services**--The Commonwealth has these services in ten areas of the state--we need them in forty.

o **Tracking and Aftercare Services**--Problems do not disappear after a single intervention--families and children need to be provided with ongoing attention of varying degrees of intensity and frequency and they need to know that someone is paying attention to their progress.

o **An Emergency Response System**--The capacity, 24 hours a day, to provide temporary shelter, medical services, legal advice, and counselors on call to help families and children in crisis--even if it's only a telephone answering machine.

Staff should be specially trained to detect and report abuse, neglect, and family violence.

o **Drug and Alcohol Detoxification Services for Adolescents**--Currently there is a four to six week waiting period for admission to programs for adolescents.

o **Medical and Dental and Health Services for Adolescents**--Funding for community health centers is being cut and there are only six school-based clinics in the Commonwealth.

o **Prevention and Early Intervention Programs**--Utilizing the schools and the Primary Prevention Centers of the Department of Public Health, provide convenient and affordable parent and teen education on family violence, substance abuse, child development, coping skills, etc.

o **Shelter Care**--Increase the capacity of shelters to deal with the most difficult to serve children--provide external support (especially medical and dental health services) and specially trained staff or volunteers to coordinate a continuum of services for children in crisis for the period of time that it takes to either reunite him or her with the family, or place in a group or foster home or independent living situation.

o **Local or Regional Residential Services**--When necessary for children to live apart from their families, it is best that they remain close as possible to their community.

o **Transportation Services**--Take into account that in many parts of the Commonwealth, lack of transportation is a real obstacle for children and adults seeking help.

o **Translation Services**--In many areas of the Commonwealth, language is a real barrier to access to services, especially when one is in crisis.

POLICY and RESOURCE PRIORITIES

The Commission recognizes the severe fiscal limitations being experience by local communities and the Commonwealth. However, as suggested by numerous advocates and fiscal experts, a dollar spent in time or money to prevent serious problems arising for families and children now or in the future will, in the end, save, on average, five dollars that will inevitably be required to hospitalize, incarcerate, educate, or bury people who do not get help when they need it and end up suffering long term physical, mental or emotional damage as a result of unresolved problems.

Recommendations

1. **Plan for Efficiency in Service Delivery**--Across the Commonwealth, additional cost containment measures should be taken and less duplication of services and structures tolerated. Everywhere possible, agencies should be finding ways to share staff--schools, social service agencies, and courts frequently deal

with the same clients--rather than having clients run around to two or three different providers, why not have one or two in a central location (such as the school) who are financed by cooperating agencies?

2. **Maximize the Benefits of Cost Sharing**--Between and among state, federal and local sources, public and private agencies, where agencies differ on allowable expenditures or proper treatments, the law should require immediate mediation of the dispute or prompt clarification of rules and regulations from the proper authorities.

3. **Make Services to Adolescents a Priority**--All state agency mandates should include the requirement that contractors state their plans to assess and serve the needs adolescents. The Department of Social Services should increase its intake, diagnostic, and treatment capacity for adolescents and mount an effort to take CHINS youth and their families as seriously as they do cases of abuse and neglect. More adolescent specialists are needed, and more effort should be made to address the transportation needs of children.

4. **Fully Fund Existing Programs for Children and Adolescents**--school reform, promising interagency agreements such as ones between the Department of Education and the Executive Office of Human Services, Commonwealth Futures, the Department of Mental Health's plan for emergency services for adolescents, the Adolescent Networks, medical services for children, substance abuse prevention and treatment programs, The Chapter 188 Essential Skills Drop-out Prevention Program (which was cut by 60% this year), AIDS prevention and treatment services, health education, counselling services in schools and communities, and emergency services.

5. **Target Existing State and Federal Dollars for Adolescent Services**--State and federal dollars should be specially targeted toward filling gaps in service or increasing the capacity of underserved areas to provide much needed services. Planning and start-up grants should be employed as mechanisms for promoting statewide equity and grass roots support and involvement.

IN SUMMARY...

The Commission observes that services to adolescents and families will be greatly improved when:

- All state and local social services, law enforcement, and schools are trained to provide services with an orientation primarily to prevention, early intervention, crisis management, and follow-up;
- The Commonwealth makes sure that there is equal, affordable, and convenient access to services for adolescents and their families statewide;
- Programs and services are community-based and locally developed and controlled;
- The Commonwealth develops and supports interest in programs and services for teenagers and families;
- State and local services are organized on a continuum;

o Professionals working with adolescents and families have the mandate and the expertise to handle family and school-based conflict;

o Diversion to voluntary solutions is attempted and, as a rule, eliminates the need for CHINS proceedings, litigation, and court involvement; and

o The Commonwealth takes steps to assure that contracted service providers are held to uniform standards of performance specifically pertaining to families and adolescents.

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APPENDIX A

[Legislation proposed by members of the Special Legislative Commission on Children in Need of Services for consideration by the 1990 session of the Great and General Court of the Commonwealth of Massachusetts]

AN ACT RELATIVE TO CHILDREN AND FAMILIES IN NEED OF SERVICES

SECTION 1. Sections 39E through 39J of chapter 119 of the General Laws, as appearing in the 1986 Official Edition, are hereby repealed, and replaced with the following twelve sections:--

Section 40. *Definitions*. Except as otherwise provided, the following terms shall have the following meanings:

"Adult," any person who is aged at least eighteen years or older.

"Court," a court of the juvenile court department or a juvenile session of the district court department having jurisdiction over a case.

"Department," the department of social services.

"Guardian," any person other than the parent who is the legally appointed guardian of a youth.

"Informal adjustment," attempts by juvenile probation officers to resolve family conflicts informally, which may include but are not limited to conferences with the youth and appropriate members of the youth's family, as well as referrals to appropriate public or private organizations or persons for psychiatric, psychological, educational, occupation, medical, dental, or social services and assessments.

"Juvenile probation officer," a probation officer of the court having jurisdiction over the pending case who is assigned to handle matters pertaining to juveniles.

"Mature youth," a youth who understands the nature of the families and children in need of services process. A youth who is aged fourteen years or older is presumed to be a mature youth.

"Parent," any person who is the father or mother of a youth, whether through natural parentage, marriage, or adoption.

"Youth," any person under the age of eighteen.

Section 41. *Jurisdiction.* Any action under this chapter shall be filed and heard in a court of the juvenile court department or a juvenile session of the district court department, except as where otherwise specifically provided. The courts shall have jurisdiction over any person or agency who is a party to an action under this chapter.

Section 42. *Application for Assessment; Procedures for Assessment.* Any parent, guardian or mature youth may apply to the department for a social service assessment, provided that the parent, guardian or mature youth making the application resides in the Commonwealth. The application shall include such information as may be required by the department, but shall include at least a statement regarding the nature of the family conflict.

Whenever the department receives application for a social service assessment a social worker for the department shall initially conduct a limited assessment within seven (7) working days of the receipt of the application. The purposes of that limited assessment will be to determine whether:

a. the social services(s) requested lie within the mandate of the department as defined pursuant to chapter eighteen B of the General Laws;

b. the service(s) are needed on an emergency basis.

If, as a result of the limited assessment, the department determines that the appropriate services do not lie within the mandate of the department, then the social worker who conducted the limited assessment shall make the necessary referral to other service providers within the time period for completion of the limited assessment. Furthermore, the department shall continue to monitor all such referrals until the department has received written confirmation from another appropriate service provider that it has accepted the applicant's request for services.

If, as a result of the limited assessment the department determines that services are needed on an emergency basis, then the department shall make a preliminary determination of the applicant's financial eligibility to receive social services. If the applicant is found financially eligible, the department shall provide or authorize services within the time period provided for completion of the limited assessment, provided, however, that such determination of eligibility and provision or authorization of services will be made earlier if necessary to avoid serious and imminent risk to the health or safety of the applicant or a member of the applicant's family.

Departmental services offered pursuant to a limited assessment or to a service plan shall be subject to sliding fees to be established in the rules and regulations of the department

consistent with the provisions of chapter eighteen D of the General Laws.

If, as a result of the limited assessment it is determined that no services are required, then the social worker shall so inform the applicant in writing.

If, as a result of the limited assessment it is determined that the service(s) requested lie within the mandate of the department but are not required on an emergency basis, then the department shall next conduct a full social service assessment. A social worker for the department shall complete such as assessment with thirty-five (35) working days of the receipt of the application. In preparing same the social worker shall, in addition to other activities as may be required by the department, personally interview or make every effort to interview (1) the applicant, and (2) both parents or guardian and (3) the youth alleged to be in conflict. In addition, the social worker shall interview personally or by telephone such persons as the social worker deems necessary including but not limited to the extended family, previous or current service providers, school personnel, and any other party identified by the applicant.

The assessment shall be reduced to writing, which document shall include relevant information regarding the family's composition, the home environment, the family's functioning, the youth's school functioning, and an evaluation of the family's general situation including whether it appears that physical, sexual or drug or alcohol abuse are issues within the family. The assessment shall at a minimum identify any service needs of family members in the following areas: medical and health needs, mental health needs, educational needs, substance abuse needs, parenting support needs, individual or family counseling, mediation, transitional living, housing, emergency shelter, substitute care, and employment and job training needs.

During the course of the assessment process, the social worker shall provide or authorize any immediately necessary services for the applicant and/or family in conflict and provide any necessary casework services. The social worker may also refer the family to a mediation program.

Section 43. *Determination of Social Service Needs; the Service Plan.* If the social worker determines, upon completion of the full assessment, that no services are necessary or that the services requested do not lie within the mandate of the department, the social worker shall inform the applicant in writing.

In all other cases, the social worker shall, in conjunction with the family, develop a service plan to meet the needs of the family within ten working days of completion of the full

assessment. Every service plan so developed shall include at least the following elements:

- the goal of the services to be provided;

- the type of services to be provided; and

- the service elements, including the identity of each provider and the schedule and duration for service delivery.

Section 44. *Administrative Appeal; Appeal to District Court.* An applicant whose family has been denied social services after a limited assessment or full assessment in accordance with the provisions of section forty-two or forty-three of this chapter, whether because none is believed to be necessary or because services are believed not to lie within the mandate of the department, or who disagrees with the provisions of a social service plan as developed may file an appeal for a fair hearing with the department. The appeal shall be conducted in accordance with rules and regulations promulgated by the department.

An applicant for a social service assessment who is dissatisfied with the result of the fair hearing may file a further appeal within thirty business days of receipt of the written decision of the fair hearings officer, which shall proceed in accordance with the provisions of sections eleven and twelve of chapter thirty A of the General Laws, provided that the appeal shall be heard by the court of the district in which the applicant resides. Should the court remand the case to the department for further action, the department shall complete a revised service plan within ten business days.

Section 45. *Complaint to Enforce Services; Hearing; Court Orders.* Any member of a family who is involved with a social service plan may bring a complaint in court alleging that the department has not provided services in conformity with the provisions of the service plan, and seeking specific *performance* of the provisions of the plan.

The court shall be required to hold a preliminary hearing on the complaint within twenty days of the filing of the complaint. The court shall have the authority to make a preliminary order that the department provide services in accordance with the service plan pending the outcome of the complaint.

If, after a hearing on the merits, the court finds on the basis of substantial evidence that the department has failed to provide services in conformity with the provisions of the service plan, the court may order specific performance of the provisions of the plan.

Section 46. *Application For Emergency Petition.* A parent, guardian, police officer, or social worker of the department may apply to a court in the district where a youth resides or where the youth is apprehended for an emergency petition alleging (1) that the youth is in imminent danger of serious harm, and (2) that the family is in need of services. A youth shall be presumed to be in imminent danger of serious harm if it is alleged that the youth has been absent from home without permission for more than twenty-four hours without notice to the parents or guardian of the youth's whereabouts. In all other cases, the emergency petition must allege specific facts tending to indicate that the youth is in imminent danger of serious harm.

Whenever an application for an emergency petition is made under the provisions of this section the court shall review the emergency petition forthwith to determine whether there is probable cause to believe that the youth is in imminent danger of serious harm. If the court finds such probable cause the court shall issue an emergency petition; otherwise, the petition shall be denied.

After issuing an emergency petition the court shall refer the case to the department for a preliminary inquiry and for attempts at informal adjustment.

Section 47. *Issuance of Warrant; Taking Into Custody.* The court may issue a warrant for any youth (1) against whom an emergency petition has been issued when requested to do so by the petitioner, or (2) who is alleged to have run from a placement ordered by the court under the provisions of subsection (3) or (4) of section forty-nine, provided that the youth is still absent from the placement or that there are clear indications that the youth is likely not to appear at the subsequent court hearing.

A youth may be taken into custody by a law enforcement officer pursuant to a warrant of arrest or whenever the law enforcement officer has probable cause to believe either that the youth has been away from home without cause for more than twenty-four hours without notice to the parents or guardian of the youth's whereabouts or that the youth has run away from a placement made by the court under the provisions of subsections (3) or (4) of section forty-nine. An officer who takes a youth into custody under the authority of this paragraph shall immediately notify the department and the parent or guardian of the youth.

A youth taken into custody under the provisions of this section shall be released to the custody of a parent, guardian or other responsible person, or if not such person is available, shall be transferred to the custody of the department within four hours of being taken into initial custody by a law enforcement officer. When a youth is held in custody in a facility operated

by or under contract with the department, the department shall apply for an emergency petition and bring the youth before the court on the next court day. A youth so held in a facility operated by or under contract with the department may be held only until such time as the youth is brought before the *court* for a preliminary hearing on the emergency petition but in no case for more than seventy-two hours.

Section 48. *Preliminary Hearing on Emergency Petition.* Whenever an emergency petition has been issued under section forty-six or section forty-seven of this chapter, the youth who is the subject of the petition, his or her parent or guardian, and a representative of the department shall be brought before the next session of the court with jurisdiction on the next court day.

Upon issuing the petition, the court may, after a hearing, order that temporary custody of the youth be transferred to:

(1) Any responsible person or agency, for a period not to exceed the completion of a full hearing on the emergency petition, provided that the youth, the parents or guardian and the person or agency to receive custody consent; or

(2) The department, for a period not to exceed the completion of full hearing on the emergency petition, if the court finds either (a) that there are clear indications that the youth is unlikely to appear for a hearing on the emergency petition, (b) that there are clear indications that the youth is likely to return to a situation in which the youth is in imminent danger of serious harm, or (c) that the youth has no parent, guardian, or custodian who can provide adequate and appropriate shelter and care for the youth and that there is no other responsible person or agency which is able to receive custody of the youth and to which the youth is willing to consent. A youth may not consent to a temporary transfer of custody without having consulted with an attorney.

Section 49. *Full Hearing on Emergency Petition.* A full hearing on an emergency petition shall be held within ten business days of the filing of the emergency petition under the provisions of section forty-six or section forty-eight.

If, after a hearing on the emergency petition, the court finds the allegations of the emergency petition are not proved by clear and convincing evidence, the court shall dismiss the petition. If the allegations are so proved, then the court may make any of the following orders:

(1) Refer the petitioner, the youth who is the subject of the petition, and other appropriate members of the family to the juvenile probation department for informal adjustment;

(2) Refer the petitioner, the youth who is the subject of the petition, and other appropriate members of the family to a family mediation program, to the department for social service assessment, to an alcohol or drug rehabilitation program, to the court clinic, or to any other public of private department or agency whose services the court deems appropriate;

(3) Order that temporary custody of the youth who is the subject of the petition be transferred to any responsible person or agency for a period not to exceed ninety days provided that the youth, the parents or guardian, and the person or agency receiving custody consent; or

(4) Order that the youth who is the subject of the petition be committed to the custody of the department for a period not to exceed ninety days, if the court finds that the youth has no parent, guardian, or custodian who can provide adequate and appropriate shelter and care for the youth.

A youth may not consent to temporary transfer of custody in accordance with the provisions of subsection (3) and (4) without first having consulted with an attorney.

The court shall instruct the juvenile probation department to conduct periodic reviews of the status of the subject of the petition.

If the court orders commitment to the department under the provisions of subsection (4), the department shall place the youth in the least restrictive alternative programming which will reasonably assure that the juvenile will not run from the placement, including if necessary a staff-secure facility but not to include facilities characterized by physically restrictive hardware. The department shall not place a youth in any facility designated or operated for juvenile delinquents, except that a youth so transferred may be placed in a residential program regardless of whether juveniles adjudicated delinquent are also provided care in such facility. Whenever possible, however, such youth should not be co-mingled.

During the duration of the ninety day commitment the department shall attempt to arrange an alternative placement for the youth or to reconcile the youth with his or her family. If an alternate placement has not been found or the youth and the family have not been reconciled within the ninety day period, the department may apply for an extension of the placement for an additional ninety days. At the expiration of the initial ninety day period, or the subsequent ninety day period if an extension has been applied for and received, the youth must be released from the custody of the department.

Section 50. *Violations of Custody Order.* If a youth subject to a custody order under the provisions of subsection (3)

or (4) of section forty-nine is alleged by the parent, guardian or court-ordered custodian to have been absent from the placement without good cause for a least twenty-four hours and the department shows by clear and convincing evidence that the placement was appropriate and that the youth is in imminent danger of serious harm, the court may issue a summons for the youth or, under the conditions outlined in section forty-seven, a warrant. The summons or warrant shall direct the youth to appear before the court at a specified date and time for the purpose of holding a hearing to determine the validity of any allegations pertaining to violation of custody orders. The court shall in addition issue a summons for the parent or guardian and issue notice to the department, directing them to appear before the court at the same time and date as the youth.

The youth shall be entitled to reasonable notice of the hearing and the charge, the right to representation by independent counsel, the right to contradict evidence and cross-examine witnesses, and the privilege against self-incrimination.

If, at the conclusion of the hearing the court determines on the basis of clear and convincing evidence that the youth was absent without good cause from the court-ordered placement and without permission for a period of at least twenty-four hours, the court may:

(1) Warn the youth;

(2) Suspend transfer of temporary custody of the youth to the department subject to such conditions as the court deems necessary to assure compliance with the court placement;

(3) Transfer temporary custody of the youth to the department for a period not to exceed six months or until the youth attains his or her eighteenth birthday, whichever occurs first.

When a youth is transferred to the custody of the department under the provisions of this section the department shall place the juvenile in the least restrictive programming which will reasonably assure that the juvenile will not run from the placement, including if necessary a staff-secure facility but not to include facilities characterized by physically restrictive hardware. The department shall not place a youth in any facility designated or operated for juvenile delinquents, except that a youth so transferred may be placed in a facility which operates as a group home or foster home regardless of whether juveniles adjudicated delinquent are also provided care in such facility. Whenever possible, however, such youth should not be co-mingled.

Under the provisions of sections forty-seven, forty-eight, forty-nine, and fifty, no youth shall be remanded to the custody of the Department of Youth Services.

Section 51. *Right to Counsel.* Youths shall be entitled to representation by and appointment of independent counsel if he or she is a party any of the following proceedings under this chapter:

- An appeal of a denial of services or of the service plan, under the provisions of section forty-four;

- A complaint to enforce services under the provisions of section forty-five;

- A preliminary hearing under the provisions of section forty-eight;

- A hearing on an emergency petition under the provisions of section forty-nine; or

- A hearing alleging violation of a custody order under the provisions of section fifty.

SECTION 2. Chapter 76 of the General Laws is hereby amended by inserting after section twenty the following seven sections:--

Section 21. *Definitions Related to Truancy.* Except as otherwise provided, for sections twenty-two through twenty-seven, the following terms shall have the following meanings:

"Clerk," any clerk of the court having jurisdiction over the pending case and whose appointment, duties, and responsibilities are governed by the provisions of chapter two hundred and twenty-one of the General Laws.

"Court," a court of the juvenile court department or a juvenile session of the district court department having jurisdiction over a case.

"Custodian," any person or agency that has custody of the youth or otherwise is known to provide care and shelter for the youth.

"Department," the department of social services.

"Guardian," any person other than the parent who is the legally appointed guardian of a youth.

"Juvenile probation officer," a probation officer of the court having jurisdiction over the pending case who specializes in juvenile matters.

"Parent," any person who is the father or mother of a youth whether through natural parentage, marriage, or adoption.

"Supervisor of attendance," an employee of the school district in which the alleged truant resides who is certified under the provisions of section nineteen of this chapter.

"Truancy," the failure of a youth who is required by law to attend an approved education program or school without due cause or excused absence to attend school for the requisite number of days, as set forth by the board of education within its authority under the provisions of section one of this chapter.

"Youth," any person under the age of sixteen.

Section 22. *Requirements of a Truancy Petition; Venue.* A truancy petition may be filed with the clerk of a court in the district where the youth resides by a supervisor of attendance for the school at which the youth is enrolled. The petition must allege:

(1) That a youth who is required by law to attend an approved educational program or school has been truant within the meaning of section twenty-one;

(2) That the supervisor of attendance has contacted the parents, guardian, or custodian of the youth alleged to be truant either in person or by registered mail and has notified the parents, guardian, or custodian of the youth's truancy;

(3) That the supervisor of attendance has met with or made every reasonable attempt to meet with the youth and the youth's parents, guardian, or custodian, at which meeting the supervisor of attendance and any other appropriate school personnel have sought to resolve with the youth and the youth's parents, guardian, or custodian the reasons for the youth's truancy; and

(4) That reasonable efforts have been made to determine the need for a Special Education Team Evaluation, and that, if necessary, said evaluation has taken place.

A petition under this section must be supported by specific facts as to each of the required allegations.

Section 23. *Summons to Youth and to Parent, Guardian, or Custodian.* Whenever a truancy petition is properly presented and supported, the court shall issue a summons to both the youth alleged to be truant and one of the youth's parents, guardian, or custodian, if any of them are known to reside within the Commonwealth. The summons shall direct the youth and the youth's parent, guardian, or custodian to appear before the court at a specified date and time for a hearing on the petition pursuant to section twenty-five of this chapter. A copy of the truancy petition shall be attached to the summons.

Service of summons may be made by having a police officer deliver the summons personally to the person for whom it is intended, by having a police officer leave it with a person of responsible age at the residential address for whom it is intended, or by having the court send the summons by registered mail to the residential address of the person for whom it is intended.

Section 24. *Probation Inquiry and Informal Adjustment.* Upon issuing the truancy petition the court may direct the juvenile probation department to conduct an inquiry into the case. In addition, the court may direct the juvenile probation department, the school or educational program, and the department to attempt informal adjustment of the alleged truancy.

An officer of the juvenile probation department, in attempting to informally adjust the truancy, may meet with or facilitate a meeting with the youth, the youth's parents, guardian or custodian, the supervisor of attendance, and any other appropriate school personnel, in order to provide such assistance as the officer believes may help to resolve the alleged truancy including an assessment of the youth's educational needs. In addition, the officer may refer the youth and the youth's parents, guardian, or custodian as well as appropriate school personnel to such programs and services as the officer believes may be helpful, including family mediation, community truancy panels, the department of social services, a court clinic, or other public departments or agencies.

The petition may be dismissed any time prior to the date of the full hearing if the supervisor of attendance certifies to the court that the youth has been attending school regularly.

Section 25. *Hearing on Truancy Petition; Findings; Orders by the Court.* At the full hearing on the truancy petition and any subsequent proceeding the youth shall be entitled to representation by and appointment of independent counsel, to introduce evidence on his or her behalf, and to contradict evidence and cross-examine witnesses introduced by the supervisor of attendance.

At the hearing the supervisor of attendance shall be required to prove each of the following allegations by clear and convincing evidence:

(1) That a youth who is required by law to attend an approved school or educational program has been truant within the meaning of section twenty-one;

(2) That the supervisor of attendance has contacted the parents, guardian or custodian of the youth alleged to be truant either in person or by registered mail and has notified the

parents, guardian, or custodian of the youth's truancy;

(3) That the supervisor of attendance has either (a) met with the youth and youth's parents, guardian, or custodian, at which meeting the supervisor of attendance and any other appropriate school or program personnel sought in good faith to resolve with the youth and the youth's parents, guardian or custodian the reasons for the youth's truancy, or (b) attempted to meet with the youth and the youth's parents, guardian or custodian, and that such a meeting did not take place because of the youth's or the youth's parent's, guardian's or custodian's failure to attend or refusal to participate;

(4) That the youth has been evaluated by a Special Education Team for any special education needs, or that all reasonable efforts have been made by the team to evaluate the youth for special education needs and that the evaluation required under this section did not take place due to the failure of the youth or the youth's parents, guardian or custodian to attend the meetings or participate in the process; and

(5) That the school has instituted an appropriate special education plan, provided that the Special Education Team has determined that the youth has special education needs.

If, after the hearing the court finds that any allegation of the truancy petition has not been sustained, the court shall dismiss the petition.

If, after the hearing, the courts finds that each allegation of the truancy petition has been sustained, the court may make the following orders:

(a) That the youth attend school in conformity with the requirements of section one of this chapter;

(b) That the youth and youth's parents, guardian or custodian meet with the supervisor of attendance and any other appropriate school personnel for the purpose of attempting in good faith to resolve the reasons for the youth's truancy; or,

(c) That the school or program conduct an assessment of the youth's educational needs, which may but need not necessarily be an assessment within the meaning of section three of chapter seventy-one B of the General Laws, and that the youth and the youth's parents, guardian or custodian cooperate in such an assessment, if such an assessment has not already taken place.

In addition, the court may recommend to the youth and the youth's parents, guardian or custodian that they apply for an assessment of social service needs by the department within the meaning of section forty-three of chapter one hundred and nineteen of the General Laws.

The court shall instruct the juvenile probation department to conduct periodic reviews of the status of the subject of the petition.

Section 26. *Violations of Court Order.* If a youth subject to a court order to attend school violates that order by failing to attend as required by section one of this chapter, the court shall hold a hearing to determine the validity of the allegations. Allegations under this section shall by make by a supervisor of attendance.

If a youth subject to a court order to attend school, under the provisions of section twenty-five, is alleged by the supervisor of attendance to have violated the court order, the court may issue a summons for the youth, directing the youth to appear before the court at a specified date and time for the purpose of holding a hearing to determine the validity of the allegations. The court shall in addition issue a summons for the parent, guardian or custodian and for a representative of the school or program, directing them to appear before the court at the same time and date as the youth.

The youth, parent, guardian or custodian, and school official shall be entitled to reasonable notice of the hearing and the charge. The youth shall have the right to contradict evidence and cross-examine witnesses, and the privilege against self-incrimination.

If, at the conclusion of the hearing, the court determines that the allegations are proved by clear and convincing evidence, the court may:

(a) Warn the youth, parent, and school or program;

(b) Suspend transfer of temporary custody of the youth to the department subject to such conditions as the court deems necessary to assure compliance with the court order;

(c) Transfer temporary custody of the youth to the department for a period of not to exceed ninety days or until the youth attains his or her sixteenth birthday, whichever occurs first; or

(d) If the youth had previously been transferred to the custody of the department for ninety days as the result of an earlier violation of a court order pursuant to sections twenty-five or twenty-six of this chapter, transfer temporary custody of the youth to the department for a period not to exceed six months or until the youth attains his or her sixteenth birthday, whichever occurs first.

If the youth is transferred to the custody of the department under the provisions of subsections (c) or (d) of this section,

the department shall formulate and put into place a service plan designed to remedy the causes of the youth's truancy.

Section 27. *Complaint to Enforce Services; Hearings; Court Orders.* A youth subject to a court order under section twenty-five of this chapter, or the parents, guardians or custodians of such a youth, may file a complaint in court alleging that the school or program which the youth attends has not provided services in conformity with the provisions of an educational service plan. A youth subject to a commitment to the department under the provisions of section twenty-six of this chapter, or the parents, guardian or custodian of such a youth, may file a complaint in court alleging that the department has failed to formulate or put into place a service plan designed to remedy the causes of the youth's truancy. In either case the complaint may seek the specific performance of a service plan.

The court shall be required to hold a hearing on the complaint within ten business days of the filing of the complaint. Notice of the hearing shall be provided to the school, the youth, and the youth's parent, guardian or custodian. The court shall have the authority to make a preliminary order that the school provide services in accordance with an approved department Individualized Service Plan or that the department formulate and put into place such a plan pending the outcome of the complaint.

The court shall have the authority to order the specific performance of both the department's Individualized Service Plan and the school district's Individualized Education Plan or of amended versions if the court finds the allegations of the complaint substantiated by a preponderance of the evidence.

Section 28. *Right to Counsel.* A youth who is a party to a proceeding under the provisions of section twenty-five or twenty-six of this chapter shall be entitled to representation by and appointment of independent counsel.

SECTION 3. This act shall take effect upon passage.

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